United Nations S/2000/396

Security Council

Distr.: General
17 April 2000

Original: English

Letter dated 22 March 2000 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

The Governing Council of the United Nations Compensation Commission held its thirty-fifth session at Geneva from 13 to 15 March 2000. Delegations from Kuwait and Iraq addressed the Council at its opening plenary meeting.

The Council elected by acclamation Bangladesh as a Vice-President of the Governing Council, following the departure of a former Vice-President, Slovenia, from the Council in December 1999.

During the session the Council considered nine reports and recommendations made by the Panels of Commissioners in the E1, E2, E3 and E4 categories of claims. The report on E1 claims (annex II) concerns oil sector claims; the report on E2 claims (annex IV) concerns non-Kuwaiti corporate claims; the three reports on E3 claims (annexes VI, VIII and X) concern non-Kuwaiti construction and engineering claims; and the four reports on E4 claims (annexes XII, XIV, XVI and XVIII) concern Kuwaiti private sector claims. The attached tables provide details of the amounts of compensation claimed in the reports and the amounts awarded by the Governing Council.

The Governing Council also considered the report of the Executive Secretary: summary of activities, covering the period from 21 October 1999 to 20 February 2000. The report covers the appointment of Commissioners, processing of claims, requests for correction under article 41 of the Provisional Rules for Claims Procedure, the withdrawal of claims and the payment of approved claims.

The Council discussed several issues relating to the processing and payment of claims, including the mechanism for the third phase of payment. The Council considered further information provided by the secretariat and recommended that a drafting group be established to prepare a draft decision concerning the details of the third phase of payment, in anticipation of a decision by the Governing Council at the next session, to be held in June 2000.

The Council continued its consideration of the request of Yemen to accept the late filing of a category F government claim, in the light of further information provided by the Government of Yemen and the secretariat. The Council, while expressing sympathy for the circumstances of Yemen, was unable to accept the request for late filing on the basis of the previously established criteria for the acceptance of such late-filed claims.

The Council also further discussed several issues related to the participation of Iraq in the work of the Commission.

Finally, the Governing Council decided to hold its thirty-sixth session from 13 to 15 June 2000.

(*Signed*) Hans J. **Heinemann**
President of the Governing Council

Annex I

SUMMARY OF RECOMMENDATIONS

1. Report and recommendations made by the panel of Commissioners concerning the fifth instalment of "E1" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
France	1	-	33,210	9,000
Japan	1	1	1,674,519	80,206
Netherlands	-	2	1,073,576	nil
Romania	-	1	105,294,514	nil
Saudi Arabia	2	1	4,365,016	1,232,210
United States	1	1	374,241	111,972
Total	5	6	112,815,076	1,453,388

2. Report and recommendations made by the panel of Commissioners concerning the fourth instalment of "E2" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Australia	4	1	17,834,441.24	437,197.62
Austria	1	5	13,530,461.15	20,019.00
Bahrain	1	3	80,694,360.82	1,979,774.56
Bangladesh	-	1	59,259.55	nil
Belgium	-	3	1,504,142.51	nil
Brazil	-	2	1,139,405.08	nil
Canada	2	4	1,748,609.44	598,492.27
China	1	5	4,234,044.68	44,076.84
Croatia	-	2	5,073,121.57	nil
Cyprus	-	5	1,345,298.05	nil
Czech Republic	1	5	12,612,961.14	207,185.60
Denmark	2	3	554,164.51	27,373.23
Egypt	-	2	475,302.94	nil
France	-	5	1,056,664.92	nil
Germany	4	2	790,868.49	69,517.55
Greece	1	3	12,153,094.68	1,265,443.25
Hungary	2	4	2,658,772.40	407,530.30

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
India	4	2	171,873.46	54,369.46
Indonesia	-	1	2,137,290.00	nil
Iran	1	-	4,058,401.00	1,251,923.50
Ireland	-	5	6,704,729.52	nil
Israel	-	4	14,397,480.72	nil
Italy	2	4	6,173,844.09	46,009.72
Japan	4	2	3,273,195.77	158,372.98
Lebanon	-	2	1,865,776.30	nil
Liechtenstein	1	1	6,148,224.89	13,960.00
Malaysia	1	-	11,524,057.84	7,951,639.28
Maldives	1	-	6,387,342.68	2,737,156.00
Morocco	-	3	5,536,250.00	nil
Netherlands	4	1	1,322,211.94	277,672.24
Pakistan	3	3	14,680,547.50	49,031.43
Poland	-	4	12,184,188.80	nil
Portugal	4	1	231,482.58	29,543.89
Republic of Korea	2	4	51,645,736.01	264,762.00
Romania	-	5	180,218,855.31	nil
Russian Federation	1	-	52,111,239.61	1,046,186.00
Saudi Arabia	-	4	23,975,052.82	nil
Singapore	4	2	500,315.99	58,221.29
Spain	1	5	7,802,494.00	54,815.16
Sweden	1	2	9,179,494.19	1,332,954.91
Switzerland	4	2	3,778,816.62	2,002,347.79
The former Yugoslav Republic of Macedonia	-	6	13,686,822.49	nil
Tunisia	-	1	686,956.00	nil
Turkey	3	3	5,127,004.34	2,187,609.01
Uganda	-	1	2,650,215.94	nil
United Arab Emirates	2	4	1,753,426.04	151,080.45

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
United Kingdom	4	2	580,234.81	162,745.97
United States	2	4	10,374,341.61	1,398,873.88
Uruguay	-	1	50,110,325.00	nil
Corporate claim directly submitted by Josef Welser OHG (claim no. 4002394)	-	1	2,228,809.78	nil
Total	68	135	670,672,010.82	26,285,885.18

3. Report and recommendations made by the panel of Commissioners concerning the seventh instalment of "E3" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Bosnia and Herzegovina	1	1	43,973,834	1,660,599
Bulgaria	1	-	60,668,364	4,566
Croatia	1	-	52,209,617	3,187,778
Germany	1	4	811,727,398	155,049
India	-	3	30,079,271	nil
Italy	-	2	1,679,402	nil
Yugoslavia, Federal Republic of	3	-	26,172,434	747,740
Total	7	10	1,026,510,320	5,755,732

4. Report and recommendations made by the panel of Commissioners concerning the eleventh instalment of "E3" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Saudi Arabia	4	15	57,488,255	53,403

5. Report and recommendations made by the panel of Commissioners concerning the twelfth instalment of "E3" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
China	1	-	24,909,175	334,912
Egypt	-	3	24,081,942	nil
Germany	-	2	381,873	nil
Israel	-	1	8,245,000	nil
Italy	-	2	5,235,139	nil
Pakistan	-	1	2,243,080	nil
Poland	1	-	4,643,401	1,278,097
Turkey	-	1	85,839	nil
United Arab Emirates	-	1	5,989,490	nil
United Kingdom	-	1	267,587	nil
Total	2	12	76,082,526	1,613,009

6. Report and recommendations made by the panel of Commissioners concerning the third instalment of "E4" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Kuwait	20	-	1,861,020,626	284,219,873

7. Report and recommendations made by the panel of Commissioners concerning the fifth instalment of "E4" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Kuwait	23	-	1,331,780,419	411,345,600

8. Report and recommendations made by the panel of Commissioners concerning the sixth instalment of "E4" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Kuwait	136	4	173,489,855	97,566,794

9. Report and recommendations made by the panel of Commissioners concerning the seventh instalment of "E4" claims

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Kuwait	138	1	274,124,813	135,879,257

Annex II

Report and recommendations made by the Panel of Commissioners concerning the fifth instalment of E1 claims*

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* Previously issued as document S/AC.26/2000/1.

CONTENTS

	Paragraphs	Page
List of claimants/List of currencies		12
List of tables		13
Introduction	1 - 6	14
I. PROCEDURAL HISTORY OF THE CLAIMS	7 - 11	16
II. LEGAL FRAMEWORK	12 - 22	17
A. Applicable law and criteria	12	17
B. Liability of Iraq	13 - 17	17
C. Evidentiary requirements	18 - 22	18
III. CLAIM OF ELF LUBRIFIANTS SA	23 - 30	20
IV. CLAIM OF VAN DER SLUIJS HANDELSMAATSCHAPPIJ	31 - 35	22
V. CLAIM OF MUTRACO HAVENSERVICE	36 - 40	24
VI. CLAIM OF PETROLEXPORTIMPORT S.A.	41 - 45	26
VII. CLAIM OF ORIENT CATALYST CO., LTD	46 - 85	27
A. Interest losses	48 - 51	27
1. Catalyst delivered prior to the invasion.	52 - 60	28
2. Catalyst delivered after the occupation..	61 - 66	29
B. Non-interest losses	67 - 85	31
1. Additional shipping costs	67 - 69	31
2. Storage costs	70 - 73	31
3. Catalyst stored in Kuwait	74 - 77	32
4. Deductions from non-interest losses	78 - 82	32
(a) Exchange rate gain	78	32
(b) Compensation from KNPC	79 - 82	33
5. Non-interest losses: recommended compensation after deductions	83 - 84	33
C. Total recommended award	85	34
VIII. CLAIM OF ANCHOR FENCE, INC.	86 - 104	35
A. Contract losses	89 - 99	35
B. Payment or relief to others	100 - 103	37
C. Recommended award	104	38
IX. CLAIM OF CALTEX PETROLEUM CORPORATION	105 - 110	39
X. CLAIM OF ARABIAN DRILLING COMPANY	111 - 115	41
XI. CLAIM OF ALHUSEINI CORPORATION	116 - 124	43
XII. CLAIM OF SAUDI AUTOMOTIVE SERVICES COMPANY	125 - 162	45
A. Real property	27	45
1. Jadidat Station	128 - 135	45
2. Riyadh Workshop	136 - 139	47
3. Um-al-Hammam Station	140 - 142	47
4. Real property: summary of recommended compensation	143	48
B. Other tangible property	144 - 146	48
C. Loss of rent	147	48
1. Loss period	148 - 152	48

2. Valuation .... 153 - 158 49

D. Loss of subsidy .... 159 - 161 50

E. Recommended compensation 162 51

XIII. CLAIM OF IDEMITSU KOSAN CO., LTD. .... 163 - 167 52

XIV. INCIDENTAL ISSUES .... 168 - 177 53

A. Currency exchange rate .... 168 - 171 53

B. Interest .... 172 - 176 53

XV. RECOMMENDATIONS 178 56

List of claimants

Name	Defined
Elf Lubrifiants SA	"Elf"
Van der Sluijs Handelsmaatschappij	"Van der Sluijs"
Mutraco Havenservice	"Mutraco"
Petrolexportimport S.A.	"Petrolexportimport"
Orient Catalyst Co., Ltd	"OCC"
Anchor Fence, Inc.	"Anchor Fence"
Caltex Petroleum Corporation	"Caltex"
Arabian Drilling Company	"Arabian Drilling"
Alhuseini Corporation	"Alhuseini"
Saudi Automotive Services Company	"Saudi Automotive"
Idemitsu Kosan Co., Ltd.	"Idemitsu"

List of currencies

Name	Defined
French franc	FRF
Japanese yen	JPY
Kuwait dinar	KD
Netherlands guilder	NLG
Romania leu	ROL
Saudi Arabian riyal	SAR
United States dollar	US$

List of Tables

Page

1. Summary of claimants 14
2. Summary of claims 15
3. Elf net claim 20
4. Elf recommended compensation 21
5. Van der Sluijs net claim 22
6. Van der Sluijs recommended compensation 23
7. Mutraco net claim 24
8. Mutraco recommended compensation 25
9. Petrolexportimport net claim 26
10. Petrolexportimport recommended compensation 26
11. OCC net claim 27
12. Non-interest losses: recommended compensation after deductions 33
13. OCC recommended compensation 34
14. Anchor Fence net claim 35
15. Anchor Fence recommended compensation 38
16. Caltex net claim 39
17. Caltex recommended compensation 40
18. Arabian Drilling net claim 41
19. Arabian Drilling recommended compensation 42
20. Alhuseini net claim 43
21. Alhuseini recommended compensation 44
22. Saudi Automotive net claims 45
23. Saudi Automotive recommended compensation 51
24. Idemitsu net claim 52
25. Idemitsu recommended compensation 52
26. Summary of recommendations by loss type with interest start dates 55
27. Summary showing net claims and the Panel's recommended awards . 56

Introduction

1. This is the fourth report to the Governing Council of the United Nations Compensation Commission (the "Commission") by the Panel of Commissioners (the "Panel") appointed to review oil sector claims submitted by corporations, other private legal entities and public-sector enterprises (category "E1" claims) pursuant to article 38(e) of the Provisional Rules for Claims Procedure[1] (the "Rules").

2. This report contains the determinations and recommendations of the Panel with respect to the fifth instalment of E1 claims, comprising 11 claims submitted to the Panel by the Executive Secretary of the Commission pursuant to article 32 of the Rules (the "fifth instalment").

3. The fifth instalment claims were filed by non-Kuwaiti companies operating in the oil sector. The claimants in this instalment typically advance loss elements arising from the disruption of their business and the destruction or theft of assets used in that business.

4. The claimants in the fifth instalment are as follows:

Table 1. Summary of claimants

Name of claimant	Submitting Government	UNCC claim No.
Elf Lubrifiants SA	France	4001834
Van der Sluijs Handelsmaatschappij	Netherlands	4001570
Mutraco Havenservice	Netherlands	4001395
Petrolexportimport S.A.	Romania	4001245
Orient Catalyst Co., Ltd	Japan	4000960
Anchor Fence, Inc.	United States	4002489
Caltex Petroleum Corporation	United States	4000595
Arabian Drilling Company	Saudi Arabia	4002829
Alhuseini Corporation	Saudi Arabia	4002555
Saudi Automotive Services Company	Saudi Arabia	4002454
Idemitsu Kosan Co., Ltd.	Japan	4000982

5. A number of fifth instalment claimants have sought compensation for claim preparation costs and interest on amounts claimed. As these issues are dealt with separately (see paras. 172-177, infra), the body of this report deals with the claims net of interest and claim preparation costs. The original and net amounts claimed in the fifth instalment are summarized as follows:

Table 2. Summary of claims

Claimant		Gross Claim	Preparation Cost	Interest	Net Claim
Elf Lubrifiants	(FRF)	174,085	0	0	174,085
Van der Sluijs	(US$)	1,037,000	0	0	1,037,000
Mutraco	(NLG)	64,410	0	not specified *	64,410
Petrolexportimport	(US$)	2,729,204	0	0	2,729,204
	(ROL)	2,027,716,177 **		0	2,027,716,177
Orient Catalyst	(JPY)	215,700,906	0	0	215,700,906
	(US$)	86,531			86,531
Anchor Fence	(US$)	172,315	0	0	172,315
Caltex	(US$)	201,926	0	0	201,926
Arabian Drilling	(US$)	53,334	0	0	53,334
Alhuseini	(US$)	2,800,000		to be determined ***	2,800,000
	(SAR)		29,000		
Saudi Automotive	(SAR)	5,678,970	17,720	to be determined ***	5,661,250
Idemitsu	(JPY)	13,366,390	0	0	13,366,390
Totals	(US$)	7,080,310	0	0	7,080,310
	(ROL)	2,027,716,177	0	0	2,027,716,177
	(JPY)	229,067,296	0	0	229,067,296
	(NLG)	64,410	0	0	64,410
	(FRF)	174,085	0	0	174,085
	(SAR)	5,678,970	46,720	0	5,661,250

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* Mutraco claims an unspecified amount of interest on the "E" claim form it filed with the Commission.

** Petrolexportimport claims that this amount represents "bank interest regarding A.M. contract". Because the claimant has not provided a detailed description or evidence with respect to this loss element, it is not clear whether it represents a claim for interest on any award made by the Commission. Accordingly, the loss element is presented here only as part of Petrolexportimport's gross claim.

*** Alhuseini and Saudi Automotive claim for interest on their losses but do not specify a monetary amount. Instead, they state that they leave the calculation of their interest losses to the Commission. In so doing, however, they claim that the rate of interest to be employed should be greater than 5.8 per cent and sufficient to compensate them for their "probable marginal cost of borrowing".

6. In this report, the Panel has prepared a claim summary chart for each claimant, which appears at the conclusion of the Panel's assessment of each claim. Where claimants have advanced claims in currencies other than United States dollars, the Panel has converted recommended compensation awards into United States dollars in the claim summary charts, based on the approach outlined in paras. 168-171, *infra*.

I. PROCEDURAL HISTORY OF THE CLAIMS

7. The secretariat of the Commission (the "secretariat") commenced a detailed preliminary assessment of the fifth instalment claims in October 1998. As a result of this review, a number of formal deficiencies in the claim files were identified, as were a number of areas where further documentation or information would clearly be required from the claimants. Accordingly, detailed notifications with respect to these deficiencies were issued to each of the claimants in the fifth instalment pursuant to article 34 of the Rules (the "article 34 notifications") on 2 November 1998.

8. As a number of the loss elements in the fifth instalment involved issues where technical advice was considered useful, the services of certain loss adjusting and accounting experts were retained to assist the Panel in its review and evaluation of the claims.

9. The Panel issued its first procedural orders relating to the fifth instalment on 20 May 1999. In most cases, these procedural orders contained interrogatories addressed to the fifth instalment claimants, seeking further evidence and explanation. These interrogatories were prepared by the Panel based on its review of the claims, with the assistance of the expert consultants. The procedural orders set a deadline of 21 July 1999 for responses to the interrogatories.

10. At the direction of the Panel, copies of the procedural orders, with the attached interrogatories, were sent to the Government of the Republic of Iraq ("Iraq").

11. After reviewing the claims, the claimants' responses to the article 34 notifications and the claimants' responses to interrogatories, the Panel directed its expert consultants to prepare a preliminary report for each of the fifth instalment claims outlining their opinion on the appropriate valuation of compensable claim elements. The Panel reviewed these preliminary reports and provided further instructions to the consultants as necessary. The consultants then prepared final reports that assisted the Panel in performing its work and making the recommendations outlined in this report.

II. LEGAL FRAMEWORK

A. Applicable law and criteria

12. The law to be applied by the Panel is set forth in article 31 of the Rules, which provides as follows:

> "In considering the claims, Commissioners will apply Security Council resolution 687 (1991) and other relevant Security Council resolutions, the criteria established by the Governing Council for particular categories of claims, and any pertinent decisions of the Governing Council. In addition, where necessary, Commissioners shall apply other relevant rules of international law."

B. Liability of Iraq

13. According to paragraph 16 of Security Council resolution 687 (1991), "Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage,… or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait". The Panel notes that, when adopting resolution 687 (1991), the Security Council acted under Chapter VII of the Charter of the United Nations, which permits it to exercise its powers under that Chapter to maintain and restore international peace and security. The Security Council also acted under Chapter VII and under Article 29 of the United Nations Charter when adopting resolution 692 (1991), in which it decided to establish the Commission and the Compensation Fund referred to in paragraph 18 of resolution 687 (1991). Given these provisions, the issue of Iraq's liability for losses falling within the Commission's jurisdiction is resolved by the Security Council and is not subject to review by the Panel.

14. The Governing Council has given some further guidance on what constitutes a "direct loss, damage or injury" for which Iraq is liable under Security Council resolution 687 (1991). Paragraph 21 of Governing Council decision 7 is the seminal rule on "directness" for claims filed on behalf of corporations and other legal entities (category "E" claims), and it provides, in relevant part, that compensation is available:

> "... with respect to any direct loss, damage, or injury to corporations and other entities as a result of Iraq's unlawful invasion and occupation of Kuwait. This will include any loss suffered as a result of:

> (a) Military operations or threat of military action by either side during the period 2 August 1990 to 2 March 1991;
>
> (b) Departure of persons from or their inability to leave Iraq or Kuwait (or a decision not to return) during that period;
>
> (c) Actions by officials, employees or agents of the Government of Iraq or its controlled entities during that period in connection with the invasion or occupation;
>
> (d) The breakdown of civil order in Kuwait or Iraq during that period; or
>
> (e) Hostage-taking or other illegal detention."[2]

15. The list of possible causes of "direct loss" in paragraph 21 is not exhaustive and leaves open the possibility that there may be causes other than those enumerated. Decision 15 of the Governing Council confirms this: "[t]here will be other situations where evidence can be produced showing claims are for direct loss, damage or injury as a result of Iraq's unlawful invasion and occupation of Kuwait". Should that be the case, the claimants will have to show that a loss that was not suffered as a result of one of the five categories of events in paragraph 21 is nevertheless a "direct" result of Iraq's unlawful invasion and occupation of Kuwait.[3]

16. While the language "as a result of" contained in paragraph 21 is not defined further in decision 7, Governing Council decision 9 provides guidance as to what may be considered to constitute "losses suffered as a result of" Iraq's unlawful invasion and occupation of Kuwait.[4]

17. Thus, decisions 7 and 9 provide guidance to the Panel as to how the "direct loss" requirement must be interpreted. It is against this background that the Panel will examine the claims discussed in this report to determine whether, with respect to each, the requisite causal link - a "direct loss" - is present.

C. Evidentiary requirements

18. Article 35(1) of the Rules provides general guidance on the submission of evidence by a claimant:

> "Each claimant is responsible for submitting documents and other evidence which demonstrate satisfactorily that a particular claim or group of claims is eligible for compensation pursuant to Security Council resolution 687 (1991)."

19. Pursuant to article 35(3) of the Rules, claims of corporations and other entities must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and amount of the claimed loss. The Governing Council has made it clear that with respect to business losses there "will be a need for detailed factual descriptions of the circumstances of the claimed loss, damage or injury" in order for compensation to be awarded.[5]

20. All corporations filing category "E" claims were required to submit with their claim forms "a separate statement explaining its claim ('statement of claim'), supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss".[6] In addition, claimants were instructed to include in the statement of claim the following particulars:

> "(a) The date, type and basis of the Commission's jurisdiction for each element of loss;
>
> (b) The facts supporting the claim;
>
> (c) The legal basis for each element of the claim;
>
> (d) The amount of compensation sought, and an explanation of how this amount was arrived at."[7]

21. Where claimants have submitted a statement of claim meeting the Commission's requirements and the statement is supported by documentary or other appropriate evidence, article 35(1) of the Rules requires the Panel to "determine the admissibility, relevance, materiality and weight" of such evidence. In so evaluating the evidence before it, the Panel must determine whether it is sufficient to demonstrate the circumstances and amount of the claimed loss.

22. The Panel notes that several of the fifth instalment claimants filed their claims without a statement of claim or documentary evidence sufficient to demonstrate the circumstances and the amount of the claimed loss. These claimants were asked, in both the article 34 notifications and the Panel's procedural orders, to provide the required information and evidence, but did not do so. Pursuant to article 9 of the Rules, the article 34 notification and the procedural orders were sent to the claimants through the Permanent Missions to the United Nations Office in Geneva of their Governments.

III. CLAIM OF ELF LUBRIFIANTS SA

23. Elf Lubrifiants SA ("Elf") is a publicly-held corporation organised under the laws of France that produces and distributes petroleum-based lubricants.

24. Elf claims that on 2 August 1990 it held legal title to 26.695 tons of marine lubricants (the "lubricants") that were being stored by Kuwait Oil Tanker Co. S.A.K. ("KOTC") on behalf of Elf in Kuwait; KOTC was Elf's agent in that country. The lubricants were intended to be provided to vessels in Kuwaiti ports pursuant to existing supply contracts. Elf claims that Iraqi forces stole or "very badly damaged" the lubricants during their occupation of Kuwait and seeks compensation in the amount of FRF 174,085 for the resulting loss. Elf's claim is as follows:

Table 3. Elf net claim

Loss element			Claim
Other tangible property		(FRF)	174,085
	Total	(FRF)	174,085

25. In support of its claim, Elf has provided its agency contract with KOTC and an inventory report showing lubricants owned by Elf that were being stored by KOTC on behalf of Elf at the end of July 1990. In addition, Elf has provided a letter from KOTC dated 30 September 1991 stating that the lubricants "were stolen by the Iraqis during the invasion and the remaining items are not usable as they are badly damaged".

26. The Panel finds that the evidence provided proves that the lubricants were being stored by KOTC on behalf of Elf on the date of Iraq's invasion of Kuwait and were stolen or spoiled during the occupation of Kuwait.

27. However, despite requests from the Panel, Elf has not provided documentary evidence, such as supply contracts or invoices with respect to past sales, of the prices it charged for lubricants at the time of Iraq's invasion of Kuwait. Instead, it has provided a list of the prices, stated in United States dollars, of the several types of lubricants that were being stored by KOTC at the time of Iraq's invasion of Kuwait. The list states the total value of the lubricants as US$30,541.

28. To obtain corroboration of the prices listed by Elf, the Panel has, with the assistance of its consultants, referred to prices charged at that time by other suppliers of marine lubricants. These confirm that the prices listed by Elf correspond to the retail prices of the lubricants.

29. However, the Panel notes that the storage agreement between Elf and KOTC indicates that Elf usually provided lubricants to vessels pursuant to long-term supply contracts. Because sales under such contracts are usually made at a discount to retail prices, the Panel finds that the prices listed by Elf should be decreased by approximately 5 per cent for the purpose of the valuation of this claim.

30. Accordingly, the Panel finds that Elf incurred a loss of US$29,000 as a result of Iraq's unlawful invasion and occupation of Kuwait and recommends that compensation be awarded in that amount. Although Elf set forth its claim in French francs, the Panel's recommended award is stated in United States dollars because the lubricant prices are stated in that currency. The recommendation of the Panel is therefore as follows:

Table 4. Elf recommended compensation

Loss element		Claim	Recommendation (US$)
Other tangible property	(FRF)	174,085	29,000
Total	(FRF)	174,085	29,000

IV. CLAIM OF VAN DER SLUIJS HANDELSMAATSCHAPPIJ

31. Van der Sluijs Handelsmaatschappij ("Van der Sluijs") is a private limited liability company organised under the laws of the Netherlands. Van der Sluijs describes itself as a wholesale trader of light refined oil products; its clients are principally resale agents in the Netherlands, Belgium and Germany. Van der Sluijs also provides transport services in connection with its trading operations.

32. Van der Sluijs claims that it incurred losses in the amount of US$ 1,037,000 as a result of increases in the price of oil that followed Iraq's invasion and occupation of Kuwait. Its claim is composed of three loss elements. First, Van der Sluijs claims that higher oil prices increased the cost of preserving its stock of oil products at desired levels, thereby causing it to incur US$172,000 in additional financing costs. Second, prior to Iraq's unlawful invasion of Kuwait, Van der Sluijs entered into a fixed-price contract to deliver a certain quantity of oil products in December of 1990. Van der Sluijs claims that higher oil prices caused the cost of performance of this obligation to increase by US$850,000. Third, Van der Sluijs claims that, due to higher diesel prices, the cost of operating its fleet of trucks increased by US$15,000. The amounts claimed are summarized as follows:

Table 5. Van der Sluijs net claim

Loss element		Claim
Financing costs	(US$)	172,000
Contract loss	(US$)	850,000
Fuel costs	(US$)	15,000
Total	(US$)	1,037,000

33. In support of its claim, Van der Sluijs has provided data with respect to market prices and stocks of oil products, data with respect to interest rates and the diesel requirements of the claimant's fleet of trucks, documentation with respect to the fixed-price contract to deliver oil products and a brochure describing Van der Sluijs' operations.

34. Security Council resolution 687 and Governing Council decisions 7 and 9 limit Iraq's liability to losses that occurred as a "direct" result of its unlawful invasion and occupation of Kuwait. In the Panel's view, there is no direct causal link between the losses suffered by Van der Sluijs and Iraq's unlawful invasion and occupation of Kuwait. Rather, the losses are of an indirect character and identical in nature to the increased costs experienced by all consumers of oil products throughout the world as a result of increases in the world price of oil following Iraq's unlawful

invasion and occupation of Kuwait and the imposition of the United Nations trade embargo pursuant to resolution 661 (1990). Such indirect losses are not, therefore, compensable.

35. Accordingly, the Panel does not need to consider further the evidence provided by Van der Sluijs. The recommendation of the Panel is summarized as follows:

Table 6. Van der Sluijs recommended compensation

Loss element		Claim	Recommendation (US$)
Financing costs	(US$)	172,000	0
Contract loss	(US$)	850,000	0
Fuel costs	(US$)	15,000	0
Total	(US$)	1,037,000	0

V. CLAIM OF MUTRACO HAVENSERVICE

36. Mutraco Havenservice ("Mutraco") was a sole proprietorship organized under the laws of the Netherlands that provided provisioning and courier services to vessels in the port of Rotterdam.

37. Mutraco claims that prior to Iraq's invasion of Kuwait it entered into a contract with Van Ommeren Transport B.V. ("Van Ommeren"), a shipping agent, to provide provisioning services in the port of Rotterdam to oil tankers arriving from Kuwait. These services were to be provided as ordered by Van Ommeren, pursuant to separate work orders. Mutraco states that Iraq's unlawful invasion and occupation of Kuwait interrupted the oil tanker traffic between the port of Rotterdam and Kuwait. As a result, Mutraco claims that it incurred NLG 64,410 in lost profits and seeks compensation in that amount. Mutraco's claim is summarized as follows:

Table 7. Mutraco net claim

Loss element			Claim
Loss of profits		(NLG)	64,410
	Total	(NLG)	64,410

38. In support of its claim, Mutraco has provided a letter from Van Ommeren stating that during Iraq's occupation of Kuwait it had not required Mutraco's services, a letter from a firm of accountants describing Mutraco's decline in business, certain documentation with respect to fixed costs incurred by Mutraco during Iraq's occupation of Kuwait and a brochure describing Mutraco's operations.

39. Security Council resolution 687 and Governing Council decisions 7 and 9 limit Iraq's liability to losses that occurred as a "direct" result of its unlawful invasion and occupation of Kuwait. In reply to a question from the Commission, Mutraco has stated that the claimed loss related to services that were provided exclusively in the Netherlands. Therefore, the claimed loss did not arise from operations by Mutraco in the geographic area of conflict. In the Panel's view, this confirms that Mutraco's claimed losses did not occur as a direct result of Iraq's unlawful invasion and occupation of Kuwait. The Panel therefore concludes that these losses are not compensable.

40. Accordingly, the Panel does not need to consider further the evidence provided by Mutraco. The recommendation of the Panel is summarized as follows:

Table 8. Mutraco recommended compensation

Loss element			Claim	Recommendation (Original currency)	Recommendation (US$)
Loss of profits		(NLG)	64,410	0	0
	Total	(NLG)	64,410	0	0

VI. CLAIM OF PETROLEXPORTIMPORT S.A.

41. Petrolexportimport S.A. ("Petrolexportimport") filed a category "E" claim form with the Commission through the Government of Romania, in which it described itself as a public-sector enterprise with operations in the petroleum business. Petrolexportimport did not submit a statement of claim or any evidence with its category "E" claim form.

42. Based on the category "E" claim form, Petrolexportimport's claim can be summarized as follows:

Table 9. Petrolexportimport net claim

Loss element			Claim
Contract losses		(US$)	2,729,204
Bank interest		(ROL)	2,027,716,177
	Totals	(US$)	2,729,204
		(ROL)	2,027,716,177

43. In the article 34 notification issued to Petrolexportimport, a number of deficiencies of this claim were noted, including the absence of a statement of claim and an absence of supporting evidence. Petrolexportimport was requested to correct these and certain formal deficiencies by 6 January 1999. The Commission has received no response to this request.

44. The Panel issued an interrogatory to Petrolexportimport with its Procedural Order of 20 May 1999; the Claimant was directed to respond to the questions in the article 34 notification by 21 July 1999. The Commission has received no response to this request.

45. The Panel finds that there is no evidence to support Petrolexportimport's claim. Accordingly, the Panel recommends that no compensation be awarded with respect to this claim. The recommendation of the Panel can be summarized as follows:

Table 10. Petrolexportimport recommended compensation

Loss element		Claim	Recommendation (Original currency)	Recommendation (US$)
Contract losses	(US$)	2,729,204	0	0
Bank interest	(ROL)	2,027,716,177	0	0
Totals	(US$)	2,729,204	0	0
	(ROL)	2,027,716,177	0	0

VII. CLAIM OF ORIENT CATALYST CO., LTD

46. Orient Catalyst Co., Ltd ("OCC") is a closely-held corporation organized under the laws of Japan that produces catalyst for use in petroleum refineries.

47. OCC seeks compensation in the amount of JPY 215,700,906 and US$86,531 for losses incurred as a result of Iraq's unlawful invasion and occupation of Kuwait. OCC's claim is summarized as follows:

Table 11. OCC net claim

Loss element			Claim
Interest losses		(JPY)	179,245,997
Non-interest losses			
Additional shipping costs		(US$)	86,531
Storage costs		(JPY)	29,152,879
Catalyst stored in Kuwait		(JPY)	7,302,030
	Totals	(US$)	86,531
		(JPY)	215,700,906

A. Interest losses

48. Orient Catalyst claims that, prior to Iraq's invasion of Kuwait, it received two purchase orders (the "purchase orders") from KNPC requesting delivery to Kuwait of 4,686 cubic meters and 12,000 cubic feet of catalyst. The catalyst was scheduled to be sent from Japan by sea in four shipments between March and September of 1990. Payment for each shipment was to occur 50 days after its shipment date.

49. The first shipment of catalyst was delivered to KNPC and paid for prior to Iraq's invasion of Kuwait. The second shipment (denominated "S-2" by OCC) was also delivered to KNPC prior to the invasion. However, payment for it was not due until August 1990, during Iraq's occupation of Kuwait. As a result, OCC did not receive payment until after the liberation of that country. The last two shipments (denominated "S-3" and "S-4") could not be shipped until after the end of Iraq's occupation of Kuwait. Payment for such shipments was therefore delayed as well.

50. OCC states that the delays in payment for catalyst ordered by KNPC caused it to maintain a higher level of debt than would have been the case if payment for each shipment had been received on time. As a result, it claims that it incurred JPY 179,245,997 in interest losses on debt owed to Nikko Finance Co. ("Nikko Finance"). OCC's claim for interest losses is stated in Japanese yen because its debt to Nikko Finance was denominated in that currency.

51. In support of this loss element, OCC has provided the purchase orders and other documentation covering the timing of shipments of catalyst ordered by KNPC, invoices and bills of lading with respect to the shipments, a notice of wire transfer evidencing payment for S-2, and certain correspondence evidencing attempts to sell catalyst that could not be delivered to KNPC. OCC has also provided certain credit documentation evidencing rates of interest paid by OCC on amounts owed to Nikko Finance.

1. Catalyst delivered prior to the invasion

52. OCC claims that S-2 was delivered to KNPC in July of 1990 and that KNPC was due to pay KD 1,338,634 for it on 10 August 1990. As a result of Iraq's unlawful invasion and occupation of Kuwait, payment was delayed by 417 days. The delay caused OCC to incur interest losses of JPY 64,389,395.

53. The Panel notes that the evidence provided by OCC confirms that payment for S-2 was delayed by at least 417 days. The Panel finds that this delay in payment and any interest loss that resulted from it were directly caused by Iraq's unlawful invasion and occupation of Kuwait.

54. In decision 16, the Governing Council stated that "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award." The Governing Council specified, further, that "[i]nterest will be paid after the principal amount of awards," while postponing a decision on the methods of calculation and payment of interest.[8]

55. The Panel notes that, if OCC had not received payment with respect to the catalyst ordered by KNPC, its claim for the principal amount not received would have been compensable. It would, therefore, have received compensation for its loss and eventually would have been entitled to interest on such award under Governing Council decision 16. As OCC did receive payment for S-2 it must, in order to be put on the same footing as other claimants receiving compensation, be entitled to interest on the principal amount paid late for the period of delay of 417 days pursuant to the formula that will be developed by the Governing Council under decision 16, neither more nor less.

56. The Panel does not accept the Claimant's calculation of the principal amount on which OCC's claimed interest loss is based. The purchase orders provide for payment in Kuwaiti dinars. However, the claimed loss represents interest charged on debt denominated in Japanese yen. Therefore, the principal amount to be employed to calculate OCC's interest loss is the amount in Japanese yen that OCC would have received if the

contract price of S-2 had been received and converted into Japanese yen in August of 1990, the time when payment for S-2 was scheduled to be effected.

57. OCC has provided evidence of exchange rates reserved prior to the invasion for the purpose of converting payment for S-2 into Japanese yen in August of 1990 (the "reserved exchange rates"). The Panel finds that, for the purpose of deriving the principal value on which OCC's interest loss was incurred, the contract price of S-2 must be converted into Japanese yen at the reserved exchange rates.

58. However, OCC did not employ the reserved exchange rates. Instead, it employed the more favourable exchange rate that obtained when OCC's payment was actually converted into Japanese yen in 1991. Based on that rate, OCC calculated a principal amount of JPY 667,322,096. The Panel finds that the correct principal amount is JPY 664,678,633.

59. The discussion of the principal amount to be employed to calculate OCC's interest losses shows that, as a result of a favourable shift in the exchange rate between the Kuwaiti dinar and the Japanese yen, OCC received a greater amount in Japanese yen than would have been the case if it had been paid on time; such gain was equal to JPY 2,643,463. The Panel finds that this amount must be deducted from OCC's recommended compensation with respect to its non-interest losses as set forth in paragraphs 79-80, infra.

60. The Panel recommends that no compensation be awarded with respect to the claimed S-2 interest losses until the time when interest is paid on awards made by the Commission. At that time, OCC's recommended award will consist of interest on the principal amount of JPY 664,678,633 for a period of 417 days at the rate determined by the Governing Council under decision 16.

2. Catalyst delivered after the occupation

61. OCC claims that S-3 and S-4 were produced prior to the invasion of Kuwait and scheduled to be shipped to KNPC from Japan in September and August 1990, respectively. Due to Iraq's occupation of Kuwait, shipment and payment for the two shipments were delayed by 737 days and 518 days, respectively. OCC claims that it incurred interest losses of JPY 114,856,602 due to late payment for S-3 and S-4. Because OCC was contractually liable for transport costs, the principal amounts employed to calculate the interest losses are equal to the contract price of each shipment minus a charge for shipping costs. The principal amounts stated by OCC are JPY 639,655,392 in the case of S-3 and JPY 156,806,225 in the case of S-4.

62. The Panel finds that the contractual documentation provided by the claimant and the bills of lading for the two shipments confirm that OCC has

not overstated the delays in shipment and therefore the length of the period over which the claimed interest losses were incurred. The Panel finds that this delay in payment and the related interest losses were directly caused by Iraq's unlawful invasion and occupation of Kuwait and the damage to KNPC refineries that resulted therefrom.

63. The Panel notes that OCC has stated that it tried to mitigate its claimed losses by offering catalyst that could not be delivered to KNPC to other purchasers. However, the existing clients of OCC that employ catalyst with specifications equivalent to those of S-3 and S-4 had already filled their requirements. Accordingly, OCC attempted to resell the catalyst to certain refineries in the United States of America, Canada and Taiwan. It has provided correspondence showing that such attempts were not successful. Based on this evidence, the Panel finds that OCC engaged in sufficient efforts to mitigate its claimed loss.

64. As in the case of S-2, the Panel notes that, if OCC had not received payment with respect to S-3 and S-4, its claim for the principal amount not received would have been compensable. It would, therefore, have received compensation for its loss and eventually would have been entitled to interest on such award under Governing Council decision 16. As OCC did receive payment it must, in order to be put on the same footing as other claimants receiving compensation, be entitled to interest on the principal amount paid late for the period of delay of 737 days in the case of S-3, and 518 days in the case of S-4, pursuant to the formula that will be developed by the Governing Council under decision 16, neither more nor less.

65. The Panel finds, based on the evidence provided, that OCC has not overstated the principal amount employed to calculate its interest losses. The Panel notes that OCC has employed the unit rate charged for the shipment of S-2 in June of 1990 to estimate the costs it would have incurred to deliver S-3 and S-4 to KNPC if Iraq had not invaded Kuwait. The Panel finds that use of the S-2 shipping rate for this purpose is appropriate.

66. The Panel recommends that no compensation be awarded with respect to the claimed S-3 and S-4 interest losses until the time when interest is paid on awards made by the Commission. The Panel recommends that at that time the following awards be made: With respect to S-3, interest on the principal amount of JPY 639,655,392 for a period of 737 days at the rate determined by the Governing Council under decision 16. With respect to S-4, interest on the principal amount of JPY 156,806,225 for a period of 518 days at the rate determined by the Governing Council under decision 16.

B. Non-interest losses

1. Additional shipping costs

67. OCC claims that, due to the delays in shipment caused by Iraq's unlawful invasion and occupation of Kuwait, it incurred higher transportation costs to deliver S-3 and S-4 to KNPC in 1992 than would have been the case if the shipments had been made on time. OCC seeks compensation in the amount of US$86,531 for such costs.

68. In support of this loss element, OCC has provided invoices with respect to the cost of shipping S-3 and S-4, and documentation evidencing the shipping rates that would have applied if S-3 and S-4 had been shipped on time.

69. The Panel finds that the evidence provided confirms that the cost of shipping S-3 and S-4 from Japan to Kuwait increased by US$86,531 as a result of the delays in shipment. Because the delays occurred as result of Iraq's unlawful invasion and occupation of Kuwait, the Panel finds that the additional shipping costs represent a compensable loss.

2. Storage costs

70. OCC claims that, due to a delay in shipment caused by Iraq's unlawful invasion and occupation of Kuwait and space limitations at its facilities in Japan, it had to store S-3 with Mitsubishi Warehouse Co. ("Mitsubishi") between 1 October 1990 and 6 October 1992. OCC seeks compensation in the amount of JPY 29,152,879 for the resulting storage charges. It does not advance a claim with respect to storage of S-4.

71. The Panel has already found, at paragraph 62, supra, that the shipment of S-3 was delayed by 737 days as a result of Iraq's unlawful invasion and occupation of Kuwait. The Panel now finds that any proven storage costs incidental to such delay were also incurred as a direct result of Iraq's invasion and occupation of Kuwait.

72. OCC has provided a copy of an invoice dated 30 September 1992 from Mitsubishi Warehouse Co. that shows that it incurred the claimed amount of storage charges with respect to S-3. In addition, OCC has stated that it attempted, in vain, to reduce such expenses by offering catalyst intended for KNPC to other purchasers. At paragraph 63, supra, the Panel found, based on the evidence provided by OCC, that such attempts represented sufficient efforts to mitigate its claimed interest losses. It reaches the same conclusion in the case of the claimed storage costs.

73. Accordingly, the Panel finds that OCC incurred a compensable loss of JPY 29,152,879 in storage expenses as a result of Iraq's unlawful invasion and occupation of Kuwait.

3. Catalyst stored in Kuwait

74. OCC claims that on 2 August 1990 it held legal title to 9,880 kilograms of catalyst stored at KNPC's Mina Abdulla refinery in Kuwait. OCC claims that such catalyst was missing from that location after the liberation of Kuwait. KNPC seeks compensation in the amount of JPY 7,302,030 for the resulting loss.

75. The Panel notes that, in order to prove that it incurred the claimed loss, OCC must, inter alia, show that the claimed amount of catalyst was being stored at the Mina Abdulla refinery on 2 August 1990, the date of Iraq's invasion of Kuwait. To this end, OCC was asked, in the article 34 notification issued on 2 November 1998, to provide the last inventory statement showing amounts stored at Mina Abdulla prior to the invasion and evidence of withdrawals between the date of that statement and the invasion.

76. In reply, OCC provided an inventory statement compiled by KNPC on 22 May 1990, more than two months prior to Iraq's invasion of Kuwait. In addition, OCC provided a letter from its agent in Kuwait, written two years after the invasion, which reconstructs the amount of catalyst held at Mina Abdulla at the time of the claimed loss by subtracting catalyst sold after 22 May 1990 from the stock reported in the KNPC inventory statement. No primary evidence of such withdrawals was provided.

77. The Panel finds that the documentary evidence provided by OCC does not prove the amount of catalyst held at Mina Abdulla on the date of Iraq's invasion of Kuwait with a sufficient degree of certainty. Accordingly, it finds that this loss element must fail on evidentiary grounds and recommends that no compensation be awarded with respect to it.

4. Deductions from non-interest losses

(a) Exchange rate gain

78. At paragraph 59, supra, the Panel found that, as a result of a shift in the exchange rate between the Kuwaiti dinar to Japanese yen exchange rate, OCC earned an extraordinary gain of JPY 2,643,463 when it received payment for S-2. The Panel recommends that this gain be deducted from any compensation awarded with respect to OCC's non-interest losses.

(b) Compensation from KNPC

79. In an Article 34 Notification, OCC was asked whether it had received any compensation for its claimed losses from KNPC.

80. OCC replied that after the liberation of Kuwait KNPC agreed to renegotiate the contract prices of S-3 and S-4 in order to partially compensate OCC for losses caused by the delays in payment. As a result, OCC received KD 69,078 in addition to the original contract price of the two shipments.

81. OCC has provided invoices evidencing the increase in the contract prices of S-3 and S-4.

82. The Panel finds that this evidence confirms that the contract price of the two shipments increased by KD 69,078 after the liberation of Kuwait. The Panel recommends that this amount be offset from any compensation awarded with respect to OCC's non-interest losses.

5. Non-interest losses: recommended compensation after deductions

83. After making the deductions set forth in paragraphs 78 and 82, *supra*, the Panel recommends that compensation in the amount of US$80,206 be awarded with respect to OCC's non-interest losses.

84. Table 12 sets forth OCC's proven non-interest losses and the deductions made from such awards to calculate the Panel's recommended award.

Table 12. Non-interest losses: recommended compensation after deductions

Loss or deduction		Claim	Proven loss or deduction (Original currency)	Proven loss or deduction (US$)
Losses				
Additional shipping costs	(US$)	86,531	86,531	86,531
Storage costs	(JPY)	29,152,879	29,152,879	244,571
Catalyst stored in Kuwait	(JPY)	7,302,030	0	0
Deductions				
Exchange rate gain	(JPY)		(2,643,463)	(19,898)
Compensation from KNPC	(KD)		(69,078)	(230,998)
Total recommended award				80,206

C. Total recommended award

85. The recommendations of the Panel with respect to OCC's claim can be summarized as follows:

Table 13. OCC recommended compensation

Loss element		Claim	Recommendation (Original currency)	Recommendation (US$)
Interest losses	(JPY)	179,245,997	*	*
Non-interest losses	(US$)	86,531		80,206 **
	(JPY)	36,454,909		

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* The recommended compensation with respect to OCC's interest losses will be determined as stated in paragraphs 60 and 66, supra.

** The calculation of the recommended award with respect to OCC's non-interest losses is set forth in Table 12, supra.

VIII. CLAIM OF ANCHOR FENCE, INC.

86. Anchor Fence, Inc. ("Anchor Fence") was a corporation organized under the laws of the State of Maryland, in the United States of America. Anchor Fence produces wire and fence products.

87. In March of 1990 Anchor Fence entered into a contract with the Chain Link Industries Company w.l.l. ("Chain Link"), a Kuwaiti company, to deliver to Kuwait wire for use in the oil industry and to train Chain Link employees to weave the wire into chain link mesh.

88. Anchor Fence claims that, as a result of Iraq's unlawful invasion and occupation of Kuwait, it was not able to deliver and receive payment for part of the wire ordered by Chain Link; this caused it to incur a loss of profits. In addition, Anchor Fence claims that it incurred further losses with respect to salary and other payments made to an employee who was not able to leave Kuwait during Iraq's occupation of that country. Anchor Fence seeks compensation in the amount of US$172,315 for these losses. Anchor Fence's claim is summarized as follows:

Table 14. Anchor Fence net claim

Loss element			Claim
Loss of profits		(US$)	161,451
Payment or relief to others		(US$)	10,864
	Total	(US$)	172,315

A. Contract losses

89. Anchor Fence seeks compensation in the amount of US$161,451 for lost profits on its contract with Chain Link. The facts alleged by Anchor Fence are as follows: On 20 March 1990 Chain Link ordered 1,350 metric tonnes ("MT") of wire from Anchor Fence for a total price of US$1,190,997. The wire was to be delivered to Chain Link in several shipments, over a period of 33 weeks. Prior to Iraq's invasion of Kuwait, Anchor Fence had delivered MT 469.594 to Chain Link, for which it was paid US$414,644. Due to Iraq's invasion and occupation of Kuwait, Anchor Fence was not able to deliver MT 880.406, the rest of the wire ordered by Chain Link. It therefore did not receive US$776,353 in revenues, the contract price of the undelivered wire.

90. Anchor Fence claims that the production costs of the wire that could not be delivered would have been equal to US$614,902. Although it has stated that a small quantity of that wire was in fact produced, Anchor

Fence has treated the production costs of the entire amount of the undelivered wire as saved costs and, in calculating its claimed loss of profits, subtracted them from the revenue that it would have received for the wire.

91. In support of this loss element, Anchor Fence has provided the purchase order that sets forth Chain Link's order of wire (the "purchase order"), invoices and bills of lading evidencing deliveries made to Chain Link, a "loss of profit affidavit" of the chief financial officer of Anchor Fence and certain internal accounting documentation with respect to actual and projected production costs.

92. The Panel finds that, as a result of Iraq's unlawful invasion and occupation of Kuwait, Anchor Fence was unable to continue to deliver wire ordered by Chain Link after 2 August 1990.

93. The Panel finds that the evidence provided confirms that Chain Link ordered MT 1,350 of wire from Anchor Fence and that MT 880.406 of that amount could not be delivered after Iraq's invasion of Kuwait. The Panel also finds that Anchor Fence did not receive payment for the undelivered wire, and that the contract price of such wire was US$776,712, an amount slightly greater than that stated by Anchor Fence. The contract price of the undelivered wire represents the gross revenue lost by Anchor Fence as a result of Iraq's unlawful invasion and occupation of Kuwait.

94. Anchor Fence has stated that its saved production costs of US$614,902 included the costs of wire, powder, direct labour, factory overhead, taxes and benefits, and packaging. The Panel finds, based on the evidence provided, that such costs were equal to US$627,925.

95. In addition, the Panel finds that Anchor Fence failed to include three categories of costs among those to be offset against the lost revenues.

96. First, Anchor Fence did not deduct from the lost revenues the cost of raw materials that would have been scrapped during the production of the undelivered wire. Based on Anchor Fence's production costs records, the Panel finds that the claimant would have incurred scrap costs of US$33,120. Such costs should be deducted from Anchor Fence's claim.

97. Second, although the purchase order allocated to Chain Link the cost of shipments from the United States to Kuwait, Anchor Fence would have been liable for the cost of transporting wire from its factory to the port of Baltimore. In response to a request from the Panel, Anchor Fence has stated that it saved US$9,342 in transport costs after further deliveries of wire to Chain Link became impossible and provided evidence of the

relevant transport rates. Based on such evidence, the Panel finds that Anchor Fence saved US$10,151 in transport costs and that this amount should be deducted from Anchor Fence's claimed loss.

98. Third, Anchor Fence was paid for wire delivered to Chain Link by means of a letter of credit. Bank statements provided to the Panel show that, due to bank charges under the letter of credit, Anchor Fence only received 99.66 per cent of each payment made by Chain Link for wire. After applying this rate, the Panel finds that Anchor Fence saved US$2,641 in bank charges on payments for the undelivered wire and that this amount should be deducted from the claimed loss.

99. The Panel finds, after making the adjustments described above, that Anchor Fence incurred a loss of profits of US$102,875 on the contract with Chain Link, and recommends compensation in that amount.

B. Payment or relief to others

100. Anchor Fence claims that on 2 August 1990 one of its employees was providing training services to Chain Link in Kuwait. When Iraq invaded that country, the employee went into hiding. He remained in Kuwait until 9 December 1990, when he was able to return to the United States. Anchor Fence claims that it continued to pay the employee's salary and benefits while he was in hiding. It seeks compensation in the amount of US$10,864 for these expenses.

101. In support of this loss element, Anchor Fence has provided a copy of the purchase order, a memorandum of the United States Department of State stating that the employee was in hiding in Kuwait between 2 August 1990 and 9 December 1990, the employee's wage and tax statement for 1990 and certain extracts of employment data prepared by Anchor Fence for the State of Maryland.

102. The Panel finds that the evidence provided shows that the employee was in hiding in Kuwait for 130 days. In addition, the Panel finds that Anchor Fence has proved that it made salary payments of US$9,097 with respect to this period. However, no evidence has been provided showing that the employee's compensation during the relevant period included payments other than his salary.

103. The Panel finds that the salary payments made to the employee for the period during which he was in hiding in Kuwait represent a loss directly caused by Iraq's invasion and occupation of Kuwait. Accordingly, it recommends that compensation in the amount of US$9,097 be provided with respect to this loss element.

C. Recommended award

104. In summary, the recommendations of the Panel are as follows:

Table 15. Anchor Fence recommended compensation

Loss element		Claim	Recommendation (US$)
Loss of profits	(US$)	161,451	102,875
Payment or relief to others	(US$)	10,864	9,097
Total	(US$)	172,315	111,972

IX. CLAIM OF CALTEX PETROLEUM CORPORATION

105. Caltex Petroleum Corporation ("Caltex") is a closely-held corporation incorporated in the state of Delaware, in the United States of America, with operations in the petroleum and petrochemical industries.

106. Caltex claims that between 13 May and 23 June 1990 its wholly-owned subsidiary, Caltex Trading and Transport Corporation ("CTTC") supplied petroleum products with a value of US$201,926 (the "products") to Jasim Abdulwahab & Partner Co. W.L.L. ("JAC"), its agent in Kuwait.[9] As part of their trading arrangements, CTTC had granted JAC 90 days' credit. As a result, JAC's obligation to pay CTTC for the petroleum products matured during Iraq's occupation of Kuwait. Caltex claims that, due to Iraq's unlawful invasion and occupation of Kuwait, JAC did not pay CTTC for the petroleum products; it seeks compensation in the amount of US$201,926 for the resulting loss. Caltex's claim is as follows:

Table 16. Caltex net claim

Loss element			Claim
Receivables		(US$)	201,926
	Total	(US$)	201,926

107. In support of its claim, Caltex has provided the agency agreement between CTTC and JAC, certain correspondence concerning the credit terms granted to JAC, invoices with respect to petroleum products delivered to JAC, and a letter dated 28 April 1991 from CTTC to JAC concerning JAC's debt to CTTC.

108. The Panel notes that, in its letter of 28 April 1991, CTTC asked JAC whether any of the products were still in JAC's possession and whether payments could be expected for products resold by JAC prior to Iraq's invasion of Kuwait. CTTC added that it was, at that time, treating the amount owed by JAC as a "force majeure situation", but asked JAC to clarify how it intended to "finalise" its debt.

109. The Panel finds that Caltex has provided no evidence showing that JAC ultimately failed to pay its debt to CTTC. In this regard, the Panel notes that Caltex was asked to state whether it had been paid by JAC after its claim was filed with the Commission in the article 34 notification that was issued on 2 November 1998 and, a second time, in the Panel's procedural order of 20 May 1999. Caltex failed to reply to both communications.

110. Without deciding whether the loss, if proven, would have resulted directly from Iraq's unlawful invasion and occupation of Kuwait, the Panel therefore finds that Caltex has failed to prove that it incurred the claimed loss. Accordingly, the Panel recommends that no compensation be awarded with respect to Caltex's claim. The recommendation of the Panel is as follows:

Table 17. Caltex recommended compensation

Loss element		Claim	Recommendation (US$)
Receivables	(US$)	201,926	0
Total	(US$)	201,926	0

X. CLAIM OF ARABIAN DRILLING COMPANY

111. Arabian Drilling Company ("Arabian Drilling") filed a category "E" claim form with the Commission in which it described itself as a joint venture company with operations in the business of oil well drilling. Arabian Drilling did not submit a statement of claim with its category "E" claim form. It did submit several invoices, some in Arabic and some in English. These invoices cannot be reconciled to the category "E" claim form.

112. Based on the category "E" claim form, Arabian Drilling's claim can be summarized as follows:

Table 18. Arabian Drilling net claim

Loss element		Claim
Real property	(US$)	35,443
Other tangible property	(US$)	17,891
Total	(US$)	53,334

113. In the article 34 notification issued to Arabian Drilling, a number of deficiencies of this claim were noted, such as the absence of a statement of claim. Specific defects in the supporting evidence submitted by Arabian Drilling were also noted, including the absence of any evidence of the circumstances of the claimed loss. Arabian Drilling was requested to correct these and certain formal deficiencies by 6 January 1999. The Commission has received no response to this request.

114. The Panel directed an interrogatory to Arabian Drilling with its Procedural Order of 20 May 1999 in which the claimant was directed to respond to the questions in the article 34 notification by 21 July 1999. The Commission has received no response to this request.

115. The Panel finds that there is insufficient evidence to support Arabian Drilling's claim. Accordingly, the Panel recommends that no compensation be awarded with respect to this claim. The recommendation of the Panel can be summarized as follows:

Table 19. Arabian Drilling recommended compensation

Loss element		Claim	Recommendation (Original currency)	Recommendation (US$)
Real property	(US$)	35,443	0	0
Other tangible property	(US$)	17,891	0	0
Total	(US$)	53,334	0	0

XI. CLAIM OF ALHUSEINI CORPORATION

116. Alhuseini Corporation ("Alhuseini") is a sole proprietorship organized under the laws of the Kingdom of Saudi Arabia ("Saudi Arabia") with operations in the petroleum industry.

117. Alhuseini claims that, during Iraq's occupation of Kuwait, Iraqi troops stole a Continental Emsco drilling rig, certain spare parts for the rig, and a mobile housing camp (the "items"). The items, which belonged to Alhuseini, were being stored at Wafra in the Kuwaiti section of the partitioned neutral zone ("PNZ") between Kuwait and Saudi Arabia.

118. Alhuseini seeks compensation in the amount of US$2,800,000, net of interest and claim preparation costs, for the resulting loss. It states that the claimed amount represents the value of the items at the time of the loss.

119. Alhuseini's claim can be summarized as follows:

Table 20. Alhuseini net claim

Loss element			Claim
Other tangible property		(US$)	2,800,000
	Total	(US$)	2,800,000

120. In support of its claim, Alhuseini has provided invoices evidencing the purchase costs of the items and contractual documentation showing that these were in use between 1980 and 1983. In addition, Alhuseini has provided a copy of a letter that it wrote to the United Nations Security Council on 18 November 1990 to report the loss. Alhuseini has also provided an insurance certificate issued on 2 June 1991 by L'Union des Assurances de Paris I.A.R.D. ("UAP"), which states that the rig and the housing camp were insured against all risks of loss or damage excluding war and that these were located at Wafra on the date of Iraq's invasion of Kuwait.

121. The Panel finds, based on the evidence provided, that Alhuseini owned the items and that these were stolen from the site where they had been stored during Iraq's occupation of Kuwait. The Panel finds that this loss occurred as a result of Iraq's invasion and occupation of Kuwait.

122. The invoices provided by Alhuseini show that the rig, the spare parts and the housing camp were purchased new in 1980 for US$7,418,615.[10]

123. However, Alhuseini has failed to provide adequate evidence of the

condition and value of the items at the time of the loss. In this regard, the Panel notes that Alhuseini claims that this failure is attributable to the fact that all documentation with respect to the maintenance and use of the items was kept at Wafra and could not be recovered after the liberation of Kuwait. Although Alhuseini has provided no evidence on this point, the Panel believes that the documentation would have been stored at the same location as the items and that it is likely to have gone missing during Iraq's occupation of Kuwait. Accordingly, it finds that Alhuseini's failure to provide evidence of the condition of the items is itself a result of Iraq's unlawful invasion and occupation of Kuwait, and proceeds to value the claimed loss based on the information available to it.

124. The Panel finds that the residual value after depreciation of the items at the time of the loss was US$1,100,000 and recommends that compensation be awarded in that amount. The recommendation of the Panel is therefore as follows:

Table 21. Alhuseini recommended compensation

Loss element		Claim	Recommendation (US$)
Other tangible property	(US$)	2,800,000	1,100,000
Total	(US$)	2,800,000	1,100,000

XII. CLAIM OF SAUDI AUTOMOTIVE SERVICES COMPANY

125. Saudi Automotive Services Company ("Saudi Automotive") is a joint stock company organized under the laws of Saudi Arabia. Saudi Automotive owns petrol stations and rest houses throughout Saudi Arabia.

126. Saudi Automotive seeks compensation in the amount of SAR 5,661,250, net of interest and claim preparation costs, for losses incurred as a result of Iraq's unlawful invasion and occupation of Kuwait. Saudi Automotive's claim is summarized as follows:

Table 22. Saudi Automotive net claims

Loss element		Claim
Real property	(SAR)	424,750
Other tangible property	(SAR)	96,500
Loss of rent	(SAR)	3,640,000
Loss of subsidy	(SAR)	1,500,000
Total	(SAR)	5,661,250

A. Real property

127. Saudi Automotive seeks compensation in the amount of SAR 424,750 for damage to buildings caused by Iraq's unlawful invasion and occupation of Kuwait. The claimed damage occurred at three locations owned by Saudi Automotive in Saudi Arabia: a service and rest station at Jadidat, Arar (the "Jadidat Station"), a mechanical workshop in Riyadh (the "Riyadh Workshop") and a service station in Um-al-Hammam (the "Um-al-Hammam Station").

1. Jadidat Station

128. The Jadidat Station is located close to the border between Saudi Arabia and Iraq. Saudi Automotive states that the construction of the Jadidat Station had just been completed when Allied Coalition Forces occupied it in September of 1990, during Iraq's unlawful occupation of Kuwait. The Jadidat Station was used as a military base until March of 1991. Saudi Automotive states that the occupying troops caused damage to the buildings of the Jadidat Station. The damage was of a superficial nature that included damage to fixed items such as doors, windows, a fence and bathroom facilities, and damage to paint work. Saudi Automotive seeks compensation in the amount of SAR 236,800, the estimated cost of repairs to the Jadidat Station.

129. Saudi Automotive has provided evidence of ownership of the Jadidat Station and copies of letters from M&M Company Ltd ("M&M Company"), the contractor that built the Jadidat Station, which refer to its occupation by Allied Coalition Forces.

130. The Panel finds that the evidence provided by Saudi Automotive proves that the Jadidat Station was occupied by Allied Coalition Forces between September 1990 and March 1991.

131. The Panel notes that Governing Council decision 7 states, in relevant part, that compensation is available with respect to "any loss suffered as a result of: ... [m]ilitary operations or threat of military action by either side during the period 2 August 1990 to 2 March 1991 ...".[11] The Panel finds that the occupation of the Jadidat Station, which is situated close to the border between Saudi Arabia and Iraq, constituted "military operations" by the Allied Coalition Forces, and that any proven losses that resulted from it were caused by Iraq's unlawful invasion and occupation of Kuwait.

132. The Panel notes that Saudi Automotive has stated that, because a decrease in traffic between Iraq and Kuwait made it unprofitable to operate the Jadidat Station, it decided not to repair the station after the end of its occupation. For this reason, Saudi Automotive has not been able to provide evidence of costs actually incurred to repair the Jadidat Station.

133. Instead, Saudi Automotive has provided two estimates, issued by separate construction firms, of the costs of repair. One of the estimates states the cost of repair as SAR 335,000; the other as SAR 290,000. The description of damage to be repaired set forth in the estimates is not detailed, although it is generally consistent with the damage described in Saudi Automotive's statement of claim.

134. However, the estimates appear to have been prepared in 1998, seven years after the claimed loss occurred. The Panel notes that, because the Jadidat Station was abandoned after 1991, the damage caused during the occupation was likely to have been exacerbated by additional wear and tear and other factors. The Panel therefore believes that the estimates, which state estimated repair costs in 1998, significantly overstate such costs.

135. The Panel finds that the cost of repairing damage caused by the Allied Coalition Forces during their occupation of the Jadidat Station would not have exceeded SAR 145,000. In addition, the Panel finds, based on the evidence provided, that no compensation for such loss was received from any other source, including the Government of Saudi Arabia and the Allied Coalition Forces. Accordingly, the Panel recommends that compensation be awarded in the United States dollar equivalent of SAR 145,000.

2. Riyadh Workshop

136. Saudi Automotive claims that on 8 February 1991 the Riyadh Workshop was damaged by the explosion of a missile nearby. It seeks compensation in the amount of SAR 178,150 for damage to the buildings.

137. In support of this loss element, Saudi Automotive has provided proof of ownership of the Riyadh Workshop, a detailed description of the damage caused by the missile explosion and a letter dated 9 February 1991 reporting the loss to the Saudi Director General of Civil Defence. It has also provided an estimate, issued by a construction contractor on 21 February 1991, which states the cost of repair of the Riyadh workshop as SAR 58,425, and receipts evidencing payment of SAR 46,265 to such contractor for the repairs.

138. The Panel finds, based on the evidence provided, that Saudi Automotive has proved that it owned the Riyadh workshop and that the Riyadh workshop was damaged by a missile explosion during Iraq's unlawful occupation of Kuwait. The Panel also finds that the damage caused by the explosion was a direct result of Iraq's unlawful invasion and occupation of Kuwait.

139. Further, the Panel finds that, because the Riyadh workshop was repaired and resumed operations after it was damaged, the cost of reasonable repairs actually made to the workshop represents the best measure of the damage incurred by Saudi Automotive. The evidence provided shows that Saudi Automotive paid SAR 46,265 to repair damages to the Riyadh Workshop and that such expense was reasonably incurred. Accordingly, the Panel recommends that compensation in the United States dollar equivalent amount of SAR 46,265 be awarded with respect to this element of Saudi Automotive's claim.

3. Um-al-Hammam Station

140. Saudi Automotive claims that it incurred certain damages to real property at the Um-al-Hammam Station. It seeks compensation in the amount of SAR 9,800, the cost of repairing the station.

141. Saudi Automotive has not provided a description of the circumstances of the loss or any documentary evidence of its occurrence. The Panel notes that Saudi Automotive was asked to do so in an article 34 notification issued on 2 November 1998 and in interrogatories attached to the Panel's Procedural Order of 20 May 1999. Saudi Automotive's replies to both communications did not address these requests.

142. Accordingly, the Panel finds that this loss element must fail on evidentiary grounds and recommends that no compensation be awarded with respect to it.

4. Real property: summary of recommended compensation

143. In summary, the Panel recommends that compensation in the United States dollar equivalent amount of SAR 191,265 be awarded with respect to Saudi Automotive's claim for damage to real property.

B. Other tangible property

144. Saudi Automotive seeks compensation in the amount of SAR 96,500 for damage to other tangible items at the Riyadh Station and the Jadidat Station.

145. However, Saudi Automotive has provided no evidence with respect to these claimed losses. The Panel notes that Saudi Automotive was asked to do so in an article 34 notification issued on 2 November 1998 and in interrogatories attached to the Panel's procedural order of 21 May 1999.

146. Accordingly, the Panel finds that this part of Saudi Automotive's claim must fail on evidentiary grounds and recommends that no compensation be awarded with respect to it.

C. Loss of rent

147. Saudi Automotive claims that due to Iraq's unlawful invasion and occupation of Kuwait it was unable to lease the Jadidat Station to a tenant or otherwise derive income from it between October of 1990 and October of 1998. It seeks compensation in the amount of SAR 3,640,000 for the resulting loss.

1. Loss period

148. Saudi Automotive claims that part of the claimed loss of rent was caused by the occupation of the Jadidat Station by Allied Coalition Forces, which made it impossible to operate the station.

149. The Panel has already found, at paragraph 130, supra, that the Jadidat Station was occupied by Allied Coalition Forces between September 1990 and March 1991 and that proven losses caused by such occupation resulted from Iraq's unlawful invasion and occupation of Kuwait. The Panel finds that the occupation of the Jadidat Station caused Saudi Automotive to lose nine months of rent. This period includes months of rent lost during the occupation period and an allowance for the time necessary to repair

damages caused by the Allied Coalition Forces. In addition, the Panel finds, based on the evidence provided, that no compensation for such loss was received from any other source, including the Government of Saudi Arabia and the Allied Coalition Forces.

150. Saudi Automotive states that the portion of its claimed rent loss that was not caused by the occupation of the Jadidat Station (the "post-occupation loss") occurred because a decrease in traffic between Iraq and the Kingdom of Saudi Arabia made it unprofitable to operate the station. Saudi Automotive has stated that the decrease in traffic was caused by the United Nations trade embargo against Iraq and the closing down of the border with Iraq; it has not provided evidence of causation other than the trade embargo.

151. The Panel notes that, pursuant to decision 9 of the Governing Council, no compensation can be awarded for losses that result from the trade embargo unless the claimant can prove that Iraq's unlawful invasion and occupation of Kuwait also constituted a cause of the loss that was separate and distinct from the embargo.[12] Because Saudi Automotive has provided no evidence of causation other than the trade embargo, and because the post-occupation loss occurred after the end of the occupation of Kuwait, the Panel finds that no compensation can be provided with respect to such loss.

152. Accordingly, the Panel finds that Saudi Automotive incurred rent losses caused by Iraq's unlawful invasion and occupation of Kuwait over a period of nine months.

2. Valuation

153. Saudi Automotive states that, because it had only just been completed, the Jadidat Station had not yet begun commercial operations when it was occupied by Allied Coalition Forces; nor had a lease with respect to it been entered into. For this reason, Saudi Automotive could not refer to past performance in calculating its losses. Therefore, Saudi Automotive has based its claimed loss on average annual rents that it charged in 1990 for certain service stations (the "other stations") which it claims were comparable to the Jadidat Station. The average annual rent of the other stations was SAR 455,000.

154. Saudi Automotive has provided extracts of leases with respect to the other stations, financial statements that set forth their construction costs and the construction contract with respect to the Jadidat Station.

155. The Panel finds that the evidence that has been provided confirms that the Jadidat Station had not begun commercial operations when it was

occupied by Allied Coalition Forces. The Panel therefore agrees that, in the absence of information with respect to past performance of the Jadidat Station or a current lease, reference to past performance for comparable stations - in this case the rents charged for the other stations - is appropriate.

156. However, the Panel notes that the evidence provided shows that the construction costs of the other stations varied materially from that of the Jadidat Station, which the Panel finds was equal to SAR 6,683,000. The Panel believes that rents of service stations are usually directly correlated to the construction costs of such stations. Therefore, the Panel finds that it is appropriate to consider rent in conjunction with construction costs.

157. In order to do so, the Panel has determined the rate of annual return on construction costs of each of the other stations. Such rates of return, which were calculated by dividing the rent of each of the other stations by its construction costs, average 6.062 per cent. Based on such average rate and on the construction cost of the Jadidat Station the Panel has calculated that, if the Jadidat Station had not been occupied, Saudi Automotive could have earned an annual rent of SAR 405,147, or SAR 303,860 over the nine-month loss period.

158. Accordingly, the Panel finds that Saudi Automotive incurred a loss of rent of SAR 303,860 as a result of the invasion and occupation of Kuwait and recommends that compensation in the United States dollar equivalent of that amount be awarded.

D. Loss of subsidy

159. In its reply to the article 34 notification of 2 November 1998, Saudi Automotive added a new loss element to its claim. Saudi Automotive claims that, due to the occupation of the Jadidat Station by Allied Coalition Forces, it did not receive a subsidy payment of SAR 1,500,000 from the Government of Saudi Arabia, and seeks compensation in that amount.

160. The Panel views replies to interrogatories and other supplemental filings as means by which a claimant may offer additional evidence and information in support of a claimed loss. However, the Panel finds that a claimant may not add new loss elements to its claim by means of such filings.

161. Accordingly, the Panel does not consider Saudi Automotive's claim for loss of subsidy and recommends that no compensation be awarded with respect to it.

E. Recommended compensation

162. The Panel's recommended compensation with respect to Saudi Automotive's claim can be summarized as follows:

Table 23. Saudi Automotive recommended compensation

Recommended award		Claim	Recommendation (Original currency)	Recommendation (US$)
Real property	(SAR)	424,750	191,265	51,072
Other tangible property	(SAR)	96,500	0	0
Loss of rent	(SAR)	3,640,000	303,860	81,138
Loss of subsidy	(SAR)	1,500,000	0	0
Total	(SAR)	5,661,250	495,125	132,210

XIII. CLAIM OF IDEMITSU KOSAN CO., LTD.

163. Idemitsu Kosan Co., Ltd. ("Idemitsu") filed a category "E" claim form with the Commission through the Government of Japan, in which it described itself as a closely-held corporation with operations in the petroleum business. Idemitsu did not submit a statement of claim with the "E" claim form. It did provide a two-page internal company document describing how certain "damages driven by Iraqi invasion of Kuwait" would be treated for accounting purposes. No other supporting evidence has been provided.

164. Idemitsu's claim can be summarized as follows:

Table 24. Idemitsu net claim

Loss element			Claim
Real property		(JPY)	13,366,390
	Total	(JPY)	13,366,390

165. In the article 34 notification issued to Idemitsu, a number of deficiencies in this claim were noted, including the absence of a statement of claim. The secretariat also noted an absence of supporting evidence. Idemitsu was requested to correct these and certain formal deficiencies by 6 January 1999. To date, the Commission has received no response to this request.

166. The Panel issued an interrogatory to Idemitsu with its Procedural Order of 20 May 1999 in which the Claimant was directed to respond to the questions in the article 34 notification by 21 July 1999. To date, the Commission has received no response to this request.

167. The Panel finds that there is insufficient evidence to support Idemitsu's claim. Accordingly, the Panel recommends that no compensation be awarded with respect to this claim. The recommendation of the Panel can be summarized as follows:

Table 25. Idemitsu recommended compensation

Loss element		Claim	Recommendation (Original currency)	Recommendation (US$)
Real property		(JPY) 13,366,390	0	0
	Total	(JPY) 13,366,390	0	0

XIV. INCIDENTAL ISSUES

A. Currency exchange rate

168. The Panel notes that several of the claimants have advanced claims in currencies other than United States dollars. Except as noted in this report, the Panel has assessed all such claims, and performed all claim calculations, in the original claim currencies. However, the Commission issues its awards in United States dollars. Accordingly, the Panel is required to determine the appropriate rate of exchange to apply to losses expressed and assessed in currencies other than United States dollars.

169. The Panel also notes that all prior Commission compensation awards have relied upon the United Nations Monthly Bulletin of Statistics for determining commercial exchange rates into United States dollars.[13] The Panel adopts that approach for this report.

170. In the circumstances, the Panel finds that the appropriate currency exchange rate to be applied to the claims advanced in the fifth instalment in currencies other than the United States dollar is the rate prevailing on the date of loss, as outlined in paragraphs 172-176, infra.

171. The currency exchange rates employed with respect to the deductions from OCC's claim (see paragraphs 78-82 supra) are those prevailing on 30 September 1991 and 3 October 1992. These are the approximate dates when OCC received the exchange rate gain and the compensation from KNPC, respectively.

B. Interest

172. All claim figures in the body of this report are net of any individual interest claims advanced by the claimants.

173. In accordance with Governing Council decision 16, "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award." In decision 16, the Governing Council further specified that "[i]nterest will be paid after the principal amount of awards," while postponing a decision on the methods of calculation and payment of interest.[14]

174. The task of the Panel, therefore, is to determine the date from which interest will run for successful claimants in this instalment.

175. In each case where a precise date of loss is apparent or discernible, the Panel recommends that precise date as the date from which interest will

run. In some cases, a precise date of loss cannot be established. In those cases, the Panel has been guided by relevant principles set forth in the report and recommendations made by the Panel of Commissioners concerning the first instalment of "E2" claims.[15] In particular, where the claim is for a loss of profits where that loss was incurred regularly over a period of time, the Panel has selected the mid-point of those losses. Further, where the claim is for a loss of tangible assets, the Panel has selected 2 August 1990 (the date of Iraq's unlawful invasion of Kuwait) as the date of the loss, as that coincides with the claimants' date of loss of control over the assets in question.

176. In accordance with these determinations, the following is a summary of the recommendations for compensation of the Panel, along with a date from which interest awards will run:

Table 26. Summary of recommendations by loss type with interest start dates

Name of claimant and loss element	US$ award amount	Interest start date
Elf		
loss of tangible property	29,000	2 August 1990
Van der Sluijs		
contract losses	0	Not applicable
business transaction or course of dealing	0	Not applicable
Mutraco		
business transaction or course of dealing	0	Not applicable
Petrolexportimport		
contract losses	0	Not applicable
bank interest	0	Not applicable
OCC		
interest losses	*	3 October 1992[16]
non-interest losses	80,206	12 September 1992[17]
Anchor Fence		
loss of profits	102,875	26 September 1990
payment or relief to others	9,097	6 October 1990
Caltex		
business transaction or course of dealing	0	Not applicable
Arabian Drilling		
real property	0	Not applicable
other tangible property	0	Not applicable
Alhuseini		
other tangible property	1,100,000	2 August 1990
Saudi Automotive		
real property - Jadidat Station	38,718	29 September 1990[18]
real property - Riyadh Workshop	12,354	8 February 1990
real property - Um-al-Hammam Station	0	Not applicable
other tangible property	0	Not applicable
loss of rent	81,138	17 March 1991[19]
Idemitsu		
real property	0	Not applicable

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* The recommended compensation with respect to OCC's interest losses is as stated in paragraphs 60 and 66, supra. Interest will be calculated on such award from the interest start date stated in Table 26, supra.

177. All claim figures in the body of this report are net of any claim preparation cost claims advanced by the claimants. In a letter dated 6 May 1998, the Panel was notified by the Executive Secretary of the Commission that the Governing Council intends to resolve the issue of the claim preparation costs at a future date. Accordingly, the Panel takes no action with respect to claims for such costs.

XV. RECOMMENDATIONS

178. The following table summarizes net claims and the Panel's recommended awards.

Table 27. Summary showing net claims and the Panel's recommended awards

Claimant		Net claim*	Recommendation (Original currency)	Recommendation (US$)
Elf Lubrifiants	(FRF)	174,085	0	29,000
Van der Sluijs	(US$)	1,037,000	0	0
Mutraco	(NLG)	64,410	0	0
Petrolexportimport	(US$)	2,729,204	0	0
	(ROL)	2,027,716,177	0	0
Orient Catalyst	(JPY)	215,700,906		80,206 **
	(US$)	86,531		
Anchor Fence	(US$)	172,315	111,972	111,972
Caltex	(US$)	201,926	0	0
Arabian Drilling	(US$)	53,334	0	0
Alhuseini	(US$)	2,800,000	1,100,000	1,100,000
Saudi Automotive	(SAR)	5,661,250	495,125	132,210
Idemitsu	(JPY)	13,366,390	0	0
Totals	(US$)	7,080,310	1,211,972	1,321,178
	(ROL)	2,027,716,177	0	0
	(JPY)	229,067,296	0	0 **
	(NLG)	64,410	0	0
	(FRF)	174,085	0	0
	(SAR)	5,661,250	495,125	132,210
	Total recommendation (US$)			1,453,388 **

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* The total in United States dollars of amounts claimed in this instalment, with claims stated in currencies other than United States dollars converted at the August 1990 average monthly rate as reported in the United Nations Monthly Bulletin of Statistics, is US$112,699,545. Petrolexportimport's claim accounts for US$105,294,514 of that amount.

** This amount does not reflect the Panel's recommended award with respect to OCC's claimed interest losses. The Panel recommends that such award be calculated as described in paragraphs 60 and 66, *supra*.

Geneva, 17 November 1999

(*Signed*) Mr. Allan Philip
Chairman

(*Signed*) Judge Bola Ajibola
Commissioner

(*Signed*) Mr. Antoine Antoun
Commissioner

Notes

[1] "Provisional Rules for Claims Procedure" (S/AC.26/1992/10).

[2] "Criteria For Additional Categories of Claims" (S/AC.26/1991/7/Rev.1) ("decision 7").

[3] "Compensation for Business Losses Resulting from Iraq's Unlawful Invasion and Occupation of Kuwait where the Trade Embargo and Related Measures were also a Cause" (S/AC.26/1992/15), para. 6 ("decision 15"). Decision 15 emphasizes that for an alleged loss or damage to be compensable, "the causal link must be direct" (para. 3).

[4] Propositions and Conclusions on Compensation for Business Losses: Types of Damages and Their Valuation" (S/AC.26/1992/9) ("decision 9"). Decision 9 discusses the three main general categories of loss types that prevail among the category "E" claims: losses in connection with contracts, losses relating to tangible assets and losses relating to income-producing properties.

[5] Decision 15, para. 5.

[6] "United Nations Compensation Commission Claim Form for Corporations and Other Entities (Form E): Instructions for Claimants", ("Form E") para. 6. This requirement is repeated at article 35, para. 1 of the Rules

[7] Form E, para. 6.

[8] "Awards of Interest" (S/AC.26/1992/16).

[9] On 23 March 1994 CTTC assigned its right to advance this claim to Caltex.

[10] Of this amount, US$969,185 represents transportation, installation and commissioning costs.

[11] Decision 7, para. 21.

[12] Decision 9, para. 6.

[13] The United Nations Monthly Bulletin of Statistics Currency conversion rates are the mid-point rates prevailing for each month.

[14] "Awards of Interest" (S/AC.26/1992/16).

[15] (S/AC.26/1998/7), paras. 276-287.

[16] This date is the estimated mid-point of the period over which OCC's interest losses were incurred.

[17] This date is the estimated mid-point of the period over which OCC's non-interest losses were incurred.

[18] This date is the approximate date when the Jadidat Station was occupied by the Allied Coalition Forces.

[19] This date is the estimated mid-point of the period over which Saudi Automotive's loss of rent was incurred.

Annex III

Decision concerning the fifth instalment of E1 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the fifth instalment of "E1" claims, covering 11 claims, 1/

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report. The aggregate amounts per country, based on the recommendations contained in paragraph 178 of the report, are as follows:

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
France	1	-	33,210	29,000
Japan	1	1	1,674,519	80,206
Netherlands	-	2	1,073,576	nil

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* Previously issued as document S/AC.26/Dec.86 (2000).

[1] The text of the report appears in document S/AC.26/2000/1 (annex II above).

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Romania	-	1	105,294,514	nil
Saudi Arabia	2	1	4,365,016	1,232,210
United States	1	1	374,241	111,972
Total	5	6	112,815,076	1,453,388

3. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)).

4. Recalls that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution.

5. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to each respective Government.

Annex IV

Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of E2 claims*

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* Previously issued as document S/AC.26/2000/2

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	67
I. THE CLAIMS	4 - 59	68
A. Claims involving Iraq or Iraqi parties	10 - 17	69
1. Contract losses	18 - 29	70
(a) Goods shipped to Iraq and received by the buyer	18 - 22	70
(b) Goods shipped to Iraq but not received by the buyer	23 - 24	71
(c) Goods not shipped to Iraq	25 - 29	72
2. Other losses	30 - 32	73
B. Claims involving Kuwait or Kuwaiti parties	33 - 55	73
1. Contract losses	36 - 50	73
(a) Goods shipped to Kuwait and received by the buyer	39	74
(b) Goods shipped to Kuwait but not received by the buyer	40 - 47	74
(i) Goods lost or destroyed in transit	41 - 44	75
(ii) Goods diverted	45 - 47	75
(c) Goods not shipped to or from Kuwait	48 - 50	76
2. Other losses	51 - 55	77
C. Claims involving parties outside Iraq or Kuwait	56 - 59	77
1. Decline in business	57	78
2. Destruction of goods or increased costs	58 - 59	78
II. PROCEDURAL HISTORY	60 - 69	79
III. EVIDENTIARY REQUIREMENTS OF THE COMMISSION AND THE PANEL'S OBSERVATIONS ON COMPLIANCE THEREWITH	70 - 77	81
A. Evidentiary requirements	71 - 75	81
B. Observations of the Panel regarding the presentation of claims	76 - 77	82
IV. JURISDICTIONAL EXCLUSION BASED ON THE "ARISING PRIOR TO" CLAUSE	78 - 98	83
A. General principles	78 - 85	83
B. Specific determinations	86 - 96	84
1. Iraqi private parties	86 - 87	84
2. Sales contracts financed by letters of credit	88 - 96	85
(a) Determination of performance under the sales contract	89	85

(b) Determination of performance under the letter of credit . . 90 - 96 85
C. Evidentiary requirements for jurisdiction . 97 - 98 87

V. CONTRACTUAL LOSSES . . . . 99 - 176 88
A. The requirement of directness . . . . 100 - 153 88
1. Contracts with Iraqi parties . . . . . 105 - 125 89
(a) Summary of relevant facts . . 106 - 108 89
(b) Legal analysis . . . . 109 - 125 90
(i) Actions by the Government of Iraq as a cause of direct loss and parallel causes . . . . 110 - 116 90
(ii) Non-payment of amounts due after 2 March 1991 . . . 117 - 119 92
(iii) Interruption of contracts with Iraqi parties . . . 120 - 125 93
2. Contracts relating to Kuwait or Kuwaiti parties . . . . 126 - 150 94
(a) Summary of relevant facts . . 127 - 133 94
(b) Legal analysis . . . . 134 - 150 95
(i) Non-payment for goods shipped to Kuwaiti parties . . . . 135 - 139 96
(ii) Goods lost or destroyed in transit . . . . 140 - 147 97
(iii) Interruption of contracts with Kuwaiti parties . 148 - 150 99
3. Contracts involving parties outside Iraq or Kuwait . . . . 151 - 153 99
B. Compensation for contract losses . . . . . 154 - 168 100
1. General principles . . . . 154 - 157 100
2. Specific applications . . . . 158 - 168 101
(a) Non-payment for delivered goods 158 - 160 101
(b) Interrupted contracts . . . . 161 - 168 102
C. Evidentiary requirements for contract-related losses . . . . 169 - 176 104

VI. NON-CONTRACTUAL LOSSES . . . . 177 - 194 105
A. The requirement of directness . . . . 178 - 193 105
1. Dealing in business and course of dealing . . . . 179 - 186 105
2. Increased cost of operations . . . . 187 - 188 107
3. Other losses . . . . 189 - 193 107
(a) Tangible property losses . . . 189 - 190 107
(b) Advance rental payments . . . 191 - 192 107
(c) Payment or relief to others . 193 108
B. Evidentiary requirements for non-contractual losses 194 108

VII. MITIGATION OF LOSSES . . . . 195 - 203 109

  A. General duty to mitigate . . . . 195 - 200 109

  B. Specific rules formulated by the Panel . . 201 - 203 110

VIII. AVOIDANCE OF MULTIPLE RECOVERY . . . . 204 - 212 113

IX. INCIDENTAL ISSUES . . . . 213 - 224 115

  A. Date of loss . . . . 213 - 217 115

  B. Currency exchange rate . . . . 218 - 220 115

  C. Interest . . . . 221 - 223 116

  D. Claims preparation costs . . . . 224 - 224 116

X. THE PANEL'S RECOMMENDATIONS 225 118

Notes 119

Annexes

I. List of reasons stated in Annex II for denial in whole or in part of the claimed amount 126

II. Recommended awards for the fourth instalment of "E2" claims . . . 128

Notes to table of recommended awards 194

List of tables

1. Governing Council decisions referred to in the present report . . 65

2. Panel reports and recommendations referred to in the present report 65

Table 1. Governing Council decisions referred to in the present report

Decision No.	Title	Document No.
7	Criteria for Additional Categories of Claims	S/AC.26/1991/7/Rev.1
9	Propositions and conclusions on compensation for business losses: Types of damages and their valuation	S/AC.26/1992/9
10	Provisional rules for claims procedure	S/AC.26/1992/10
13	Further measures to avoid multiple recovery of compensation by claimants	S/AC.26/1992/13
15	Compensation for business losses resulting from Iraq's unlawful invasion and occupation of Kuwait where the trade embargo and related measures were also a cause	S/AC.26/1992/15
16	Awards of interest	S/AC.26/1992/16
46	Decision concerning explanatory statements by claimants in categories "D", "E" and "F"	S/AC.26/1998/46

Table 2. List of Panel reports and recommendations referred to in the present report

Short name	Title	Document No.
C(1) report	Report and recommendations made by the Panel of Commissioners concerning the first instalment of individual claims for damages up to USD 100,000 (Category "C" claims)	S/AC.26/1994/1
E1(3) report	Report and recommendations made by the Panel of Commissioners concerning the third instalment of "E1" claims	S/AC.26/1999/13
E2(1) report	Report and recommendations made by the Panel of Commissioners concerning the first instalment of "E2" claims	S/AC.26/1998/7
E2(2) report	Report and recommendations made by the Panel of Commissioners concerning the second instalment of "E2" claims	S/AC.26/1999/6
E2(3) report	Report and recommendations made by the Panel of Commissioners concerning the third instalment of "E2" claims	S/AC.26/1999/22
E3(1) report	Report and recommendations made by the Panel of Commissioners concerning the first instalment of "E3" claims	S/AC.26/1998/13

Short name	Title	Document No.
E3(2) report	Report and recommendations made by the Panel of Commissioners concerning the second instalment of "E3" claims.	S/AC.26/1999/5
E3(3) report	Report and recommendations made by the Panel of Commissioners concerning the third instalment of "E3" claims	S/AC.26/1999/1
E4(1) report	Report and recommendations made by the Panel of Commissioners concerning the first instalment of "E4" claims	S/AC.26/1999/4

Introduction

1. The Governing Council of the United Nations Compensation Commission (the "Commission"), at its thirtieth session in December 1998, appointed the present Panel of Commissioners (the "Panel" or "E2A Panel"), composed of Messrs. Bruno Leurent (Chairman), Kaj Hobér and Andrei Khoudorojkov, as the second panel of Commissioners to review category "E2" claims (the "'E2' claims"). The category "E2" population consists of claims submitted by non-Kuwaiti corporations, public sector enterprises and other private legal entities, excluding oil sector, construction/engineering, export guarantee/insurance and environmental claims. This report contains the Panel's recommendations to the Governing Council, pursuant to article 38 (e) of the "Provisional Rules of Claims Procedure" (the "Rules"), concerning the fourth instalment of "E2" claims.

2. The instalment consists of 221 claims submitted by companies engaged in import-export trade. 1/ These claims were selected by the secretariat of the Commission from among the entire group of "E2" claims on the basis of criteria established under the Rules. These include (a) the date of filing with the Commission, (b) the claimant's type of business activity, and (c) the type of loss claimed. A description of the claims is set out in section I below. This is followed in section II by an explanation of the procedure used by the Panel in processing the claims. The claims under review are the first group of approximately 1,300 import-export claims that seek a total of over USD 3.8 billion in compensation, and which are expected to be reviewed in five instalments. This initial group of claims presents certain threshold legal issues that are also relevant to the remaining import-export claims.

3. The role and tasks of a panel of Commissioners, the applicable law and criteria, the liability of Iraq and a description of the pertinent evidentiary requirements have been set forth in detail in the report and recommendations concerning the first instalment of "E2" claims (the "E2(I) report"). 2/ In accordance with this framework, three tasks have been entrusted by the Governing Council to the Panel. First, the Panel must determine whether the various types of losses alleged by the claimants are, in principle, compensable; and, if so, the appropriate measure of compensation. Second, the Panel must verify whether the losses that are in principle compensable have in fact been incurred by a given claimant. Third, the Panel must value those losses found to be compensable and make recommendations with respect to an award thereon. The implementation of these steps with regard to the present instalment is described in sections III to IX, followed by the Panel's recommendations in section X.

I. THE CLAIMS

4. The claimants are companies which, for the most part, were engaged in the export of goods to Iraq and Kuwait at the time of Iraq's invasion of Kuwait on 2 August 1990. The claimants allege that, as a result of Iraq's invasion and occupation of Kuwait, and the ensuing actions of the Allied Coalition Forces to liberate Kuwait, they sustained losses in connection with contracts and commercial dealings that were entered into prior to 2 August 1990.

5. As described by the claimants, the interruption of commercial activity resulting from Iraq's invasion and occupation of Kuwait had far-reaching consequences and took various forms. As a result of military operations, air, shipping and road transportation to, from and within the Middle East was cancelled, substantially reduced or re-routed, and transport to and from Iraq and Kuwait virtually came to a halt. Shipping operations in the Persian Gulf were endangered by mines laid by Iraq.

6. In addition to the immediate disruption to shipping operations caused by Iraq's invasion of Kuwait, the claimants state that the restrictions following from the trade embargo imposed by the United Nations Security Council 3/ and the danger presented by military operations in the area, prevented the delivery of goods to Iraq or Kuwait. Claimants further cite Iraq's purported repudiation of its foreign debt, shortly after its invasion of Kuwait, as a cause of loss.

7. Claimants also describe the devastating effects of the occupation on economic and commercial activity in Kuwait. Businesses in Kuwait to which claimants had sold goods were destroyed or damaged by Iraqi forces. Owners and staff were killed, held hostage or fled the country. Commercial and financial establishments ceased to operate and foreign trade was suspended. Claimants also state that goods that had been shipped by claimants and were located in docks or at Kuwait International Airport were looted or destroyed by Iraqi forces. Items that had already been delivered to customers were plundered from warehouses, factories or stores in Kuwait. Banking operations in Kuwait were seized by Iraqi forces and were suspended for virtually the entire duration of the occupation, thereby interrupting payment transfers and other banking transactions.

8. It is against this general background that the claimants seek compensation for losses before this Commission. Most of the claims are based on contracts with Iraqi or Kuwaiti parties. The losses alleged include non-payment for previously shipped goods, the loss or destruction of goods in transit to a customer, the interruption or diversion of deliveries and the cancellation of production. Other claimants allege a disruption of ongoing business relations or a decline in business and an ensuing loss of revenue. The nature of the claims in this instalment is presented in further detail below.

9. Given the large number of claims under review, the Panel has divided the claims into three groupings in order to allow claims with similar factual and legal issues to be analysed in a consistent manner. Claims involving contracts with Iraqi parties and claims involving contracts with Kuwaiti parties are dealt with separately. There is also a small number of claims in a third group that involve contracts with parties located outside of Iraq or Kuwait.

A. Claims involving Iraq or Iraqi parties

10. Ninety-nine claims in this instalment are based on losses arising from the sale of goods to an Iraqi party. (In this report, these claims are sometimes referred to as "Iraqi claims".) The claimants seek compensation for unpaid shipments of goods to Iraq or for the interruption of contracts or business dealings, the continuation of which became impossible after 2 August 1990 as a result of Iraq's invasion and occupation of Kuwait. The claims frequently allege losses involving multiple shipments of goods. Indeed, the 99 Iraqi claims that are presently before the Panel involve over 1,500 separate transactions.

11. The claimants are manufacturers, suppliers or trading companies based in 50 countries. Many claimants state that they had long standing business relationships with Iraqi customers and had shipped goods to Iraqi buyers on a routine basis prior to Iraq's invasion of Kuwait. Others state that they had recently entered the Iraqi market and sought to take advantage of the economic liberalization in Iraq during the late 1980s in order to develop a new customer base.

12. Although many Iraqi parties to the contracts under consideration are state-controlled entities, a substantial number are private parties. The transactions are representative of most sectors of international trade. The claims under review, for example, relate to sales of fabric and textile products, foodstuffs, pharmaceutical products and medical supplies, household items and consumer goods, books and publications, agricultural machinery and supplies, chemical products, oil industry materials, electrical instruments, computer equipment, production machinery, and construction materials and equipment.

13. In the majority of claims under review, shipments were made to Iraq prior to 2 August 1990, but under deferred payment terms requiring payment after 2 August 1990. Most deliveries were made between 1987 and late 1989, and payment was due by the Iraqi buyer in one to two years. In the remaining claims, the goods were delivered to Iraq in the spring or summer of 1990 and carried equally long payment terms. A few of the shipments were payable upon delivery.

14. For the most part, the transactions with Iraqi customers were financed by unconfirmed, irrevocable letters of credit issued by the Central Bank of Iraq or two other Iraqi state controlled banks: the

Rafidain Bank and the El Rashid Bank. The letters of credit usually provided for payment between one to two years after the issuance of the bill of lading. Some payment terms extended to 720 days or even, in several instances, five years after delivery.

15. Several claimants had no direct agreement with the Iraqi buyer, but supplied products that another party had contracted to sell to the Iraqi party. In certain claims, the claimant's foreign trade organization had entered into a contract on its behalf with an Iraqi state enterprise, pursuant to which the claimant delivered products for which it was allegedly not paid.

16. A number of claimants state that their governments had extended credit to the Government of Iraq under bilateral trade agreements usually providing that exports of goods and services to Iraq would be made under deferred payment terms of two to three years. The claimants state that pursuant to these agreements they delivered goods to Iraq, usually between 1987 and 1989, for which payment has not been made. In several instances, the Government of Iraq had also provided assurances to the claimant's government that future or delinquent amounts that were owed for these exports would be paid. Other agreements represent the rescheduling of prior debts. 4/

17. A number of claimants in this instalment have already recovered all or part of their losses from export insurance organizations in their respective countries. In such cases, the claimants either seek the difference between the original amount of the loss and the amount that they recovered, or they claim for the full amount of the loss on the basis that a reimbursement agreement requires that any monies received in compensation will be returned to the insurer. A few claimants have obtained a judgment for all or part of their losses, which either has not been satisfied or does not cover the entire loss.

1. Contract losses

(a) Goods shipped to Iraq and received by the buyer

18. Most of the claims based on transactions with Iraqi parties involve unpaid shipments of goods to Iraq, which were delivered between 1987 and 1989 but for which the buyer's payment was not due until after 2 August 1990. In many cases, payment was not due from the buyer until after 2 March 1991, the date upon which the Security Council adopted resolution 686 (1991) establishing the conditions for a cease-fire, following the suspension of offensive combat operations.

19. Some claimants allege that before Iraq's invasion of Kuwait they were promptly paid by the Iraqi customer. Other claimants state that, although payments were not always made in a timely manner, they were nonetheless eventually made. All claimants assert that while Iraqi parties paid for

goods imported from foreign sellers until 2 August 1990, no payments were made thereafter.

20. With respect to sales financed by letters of credit issued by an Iraqi bank, the claimants generally state that the Iraqi bank or their correspondent bank abroad received the documents required under the credit, but that the Iraqi banks did not honour letters of credit after 2 August 1990. In all sales (payable with or without a letter of credit), the foreign currency payment to the seller was subject to exchange control measures in Iraq.

21. Compensation is sought by the claimants for various losses arising from the unpaid shipments. For the most part, the claimants seek to recover the original contract price of the goods, plus interest after the payment due date, as stipulated in letters of credit or bills of exchange. Others also request additional costs associated with their performance of the contracts, such as bank charges for letters of credit, interest on loans taken out by the claimant to buy, produce or transport the goods, or financing charges under credit arrangements that were secured by Iraqi receivables. Some claimants seek compensation for the opportunity cost of the unpaid amounts under the contract or of funds used to pay financing charges.

22. Several claimants have asserted that, prior to Iraq's invasion of Kuwait, Iraqi customers were the main source of revenue for their business and that the amounts owed represented a substantial portion of their income. Some of these claimants allege that, as a consequence of the buyers' non-payment, they suffered serious cash flow problems and were unable to meet their own obligations and, as a result, they were forced to reduce operations or were rendered bankrupt. In such claims, in addition to the contract price of the goods, compensation is sought for charges associated with the claimants' liquidation or re-organization and for injury to their reputation. Some claimants also seek reimbursement of lawyers' fees incurred in attempting to collect the unpaid amounts from the Iraqi party or in obtaining legal advice with respect to their own corporate liquidation or re-organization.

(b) Goods shipped to Iraq but not received by the buyer

23. This instalment includes several claims in which goods could not be delivered to Iraq but had to be diverted to other buyers or returned to the claimants. The claimants state that, due to the disruption of transportation operations, carriers were re-routed from the Middle East and cargo was off-loaded at other locations. A few claimants allege that goods were lost or destroyed while they were being returned to the claimant or were en route to a substitute buyer.

24. These claimants generally state that, as a result of their inability to deliver the goods to the Iraqi purchaser, they were forced to sell them

at a lower price or that no alternative buyer could be found. For the most part, the claimants seek compensation for the difference between the original contract price and the final price realized on the resale of the goods to a third party. 5/ Some claimants seek the full contract price, alleging that the goods were made to the particular specifications of the Iraqi purchaser and could not be sold elsewhere. Compensation is sought by all claimants in this group for additional expenses incurred in their efforts to resell the goods, such as shipping costs, storage fees and financing charges.

(c) Goods not shipped to Iraq

25. A number of claimants state that they had produced or procured goods ordered by Iraqi parties but were prevented from shipping them after 2 August 1990 due to Iraq's invasion and occupation of Kuwait. Some claimants state that they had long term contracts to supply goods to Iraq, the continued performance of which became impossible after 2 August 1990. Several claims relate to multiple contracts for the supply of specialized equipment and training to Iraqi state industries.

26. Where the goods were not fully manufactured before Iraq's invasion, the claimants generally state that they suspended production once the invasion occurred. Several claimants contend that they had already procured components or materials to produce the items and that, after Iraq's invasion, these could not be utilized or became damaged and could not be sold. Others completed production, but resold the items in other markets at a price below the contract value.

27. Several claimants, most of which are manufacturing firms, allege that they had produced the goods to the Iraqi buyer's specifications and that they were unable to find an alternative customer or the goods could only be sold at a substantial discount. Some businesses, such as pharmaceutical outlets, specialized equipment and component suppliers, and cigarette producers, state that the goods were specifically made, labelled, packaged or designed for the Iraqi market and could not feasibly be resold elsewhere due to certification procedures or packaging requirements. In such cases, the claimants usually seek the original contract price of the items less their scrap or salvage value.

28. Otherwise, these claimants seek to recover for the same kinds of losses as those alleged by the claimants in the preceding group, namely the difference between the original contract price and the price at which the goods were sold to a third party, plus the costs associated with the resale transaction. Such additional resale costs include expenses incurred to redesign, retool or repackage the goods for resale. Some claimants seek to recover for governmental export incentives that were lost when goods destined for Iraq had to be sold in other countries where the incentive was unavailable.

29. In particular, where it became impossible or uneconomical to complete production, the claimants generally seek compensation for the profits they could have earned had they been able to complete performance on the contract. Others seek their incurred costs, such as the value of unused materials and components, production costs, or unproductive staff and equipment.

2. Other losses

30. A few claimants seek compensation for a decline in the revenue derived from business dealings with Iraqi customers on the ground that the continuation of these business activities became impossible due to Iraq's invasion and occupation of Kuwait. Some claimants allege that a series of contracts with an Iraqi buyer would have continued had Iraq's invasion of Kuwait not occurred and seek compensation for the profits that they had expected on future orders.

31. Claimants in this category often state that, at the time of Iraq's invasion of Kuwait, a large percentage of their customers were Iraqi enterprises. Several claimants allege that the disruption of their ongoing business relationship with Iraqi State organizations, which had been their primary customers over a number of years, caused them to become insolvent, forced them into bankruptcy and, as a consequence, caused harm to their reputation.

32. A few claimants have submitted claims for the loss of tangible property related to branch offices and other business premises in Iraq. These claims are submitted in respect of office furniture, equipment and vehicles or personal property that were in Iraq at the time of Iraq's invasion of Kuwait.

B. Claims involving Kuwait or Kuwaiti parties

33. Of the claims under review, 103 are based on losses arising from contracts with Kuwaiti parties or involve goods lost in Kuwait. (In this report, these claims are sometimes referred to as "Kuwaiti claims".) Most of the claims involve goods shipped to a Kuwaiti buyer prior to 2 August 1990 for which payment was not received. Other claims are for goods that were lost or destroyed in Kuwait while in transit to a buyer in Kuwait or another country. The remaining claims relate to the inability to perform contracts because delivery to the Kuwaiti buyer was prevented or manufacture was suspended after Iraq's invasion and occupation of Kuwait.

34. The claimants in this portion of the instalment are based in approximately 35 countries. As with the Iraqi claims, the claimants are mostly exporters or manufacturing companies, representative of various economic sectors involved in international trade. Some of the claimants allege that they had shipped goods to Kuwait on a regular basis and had long standing business relationships with the Kuwaiti parties prior to 2

August 1990. A few claimants have obtained partial payment for the goods, pursuant to a settlement with the buyer or through export insurance, and they seek the balance through the Commission.

35. Most of the Kuwaiti buyers were private businesses. The payment terms of such sales usually involved cash against documents or provided for payment between one and three months. In some cases, letters of credit issued by Kuwaiti banks or bills of exchange were used as payment mechanisms and, in such cases, payment was generally due upon the presentation of documents. In a few cases, the letters of credit issued by Kuwaiti banks were confirmed by outside banks.

1. Contract losses

(a) Goods shipped to Kuwait and received by the buyer

36. In many of the claims, the claimant states that goods were shipped to a Kuwaiti buyer shortly before 2 August 1990 but that, as a result of Iraq's invasion and occupation of Kuwait, it has not been paid for the goods.

37. In most of these claims, the goods were received by the Kuwaiti purchaser. However, many claimants assert that the buyer fled Kuwait, its business was destroyed by Iraqi forces or that, after the liberation of Kuwait, the buyer did not resume business or was rendered insolvent. Others allege that the buyer's financial condition was substantially impaired due to Iraq's invasion and occupation. A number of claimants maintain that they have been unable to locate the buyer following the end of Iraq's occupation of Kuwait.

38. Some of these claims involve the shipment of goods that arrived at a date sufficiently prior to Iraq's invasion to allow the Kuwaiti buyer to collect the goods, clear them through customs and incorporate them into its inventory. In these situations, the Kuwaiti buyer has often acknowledged receipt of the goods but has contended that, while at the buyer's premises, the goods were looted or destroyed during Iraq's invasion and occupation. In other situations, it is alleged that the goods could not be located following the liberation of Kuwait.

39. In all of these claims, the claimants seek compensation for the original contract price of the goods. In a few claims, the Kuwaiti buyer has partially paid the claimant for the goods, in some cases pursuant to a settlement agreement. In such situations, the claimants seek compensation for the unpaid portion of the contract price.

(b) Goods shipped to Kuwait but not received by the buyer

40. A number of claimants assert that, although the goods were shipped to Kuwait, the Kuwaiti buyer never received the goods and that they were

seized or destroyed by Iraqi forces or were lost amid the civil disorder in Kuwait following Iraq's invasion. In other situations, the Kuwaiti buyer did not receive the goods because they were diverted while en route to Kuwait when Iraq's invasion of Kuwait and the ensuing developments prevented delivery.

(i) Goods lost or destroyed in transit

41. Many claimants allege that the goods were lost or destroyed in Kuwait while en route to a Kuwaiti buyer or to a buyer located in another country.

42. In most of these claims, it is alleged that goods destined for a Kuwaiti buyer had arrived in Kuwait near the time of Iraq's invasion and, on 2 August 1990, were either in the airport or in the docks, warehouses or customs area of one of Kuwait's three maritime ports (Shuwaikh, Shuaiba and Doha). Claimants state that the ports were largely destroyed and the warehouses in which the goods were stored were looted. Goods lost in transit that had been destined for purchasers in third countries, usually in Europe, were typically on flights that had stopped at Kuwait International Airport shortly before Iraq's invasion. The airport itself was the subject of attack and, according to the claimants, goods located in airport holding areas were looted before they could be transferred to a connecting flight.

43. In one claim, equipment and materials, which were being supplied to the claimant by a Kuwaiti contractor for use in the claimant's construction project outside Kuwait, were allegedly stolen by Iraqi forces as they were about to be shipped.

44. Compensation is generally sought for either the unpaid contract price of the goods or lost profits that would have been earned under the contract had Iraq's invasion and occupation of Kuwait not occurred. Some claimants also seek compensation for lost governmental export incentives because the sales in question were not completed.

(ii) Goods diverted

45. In several claims, claimants allege that goods could not be delivered to Kuwaiti parties and were later resold to a third party at a price less than the original contract price. The claimants generally allege that the goods were shipped prior to 2 August 1990 and that, as a result of the hostilities in the region, the carrier could not enter Kuwait. Unable to complete delivery to Kuwait, the claimant either diverted the goods directly to an alternative customer or retrieved the goods for storage and eventual resale to a third party.

46. These claimants usually seek compensation for the difference between the original contract price and the price at which the goods were resold. Some claimants also seek compensation for the freight charges they incurred

in returning the goods, demurrage charges, storage costs, health or safety inspection fees, and resale expenses.

47. In some claims, the claimants allege that the goods could not be resold to other customers either because they were specially manufactured according to the buyers specifications or because there was a very limited market for the product outside of Kuwait. Such goods range from manufactured bags of snack foods bearing the name of the Kuwaiti buyer to metering pumps for subterranean exploration. In such cases, the claimants usually seek compensation for the amount of the contract price, less an allowance for the scrap value of the goods.

(c) Goods not shipped to or from Kuwait

48. A number of claims involve contracts with Kuwaiti parties for goods that were scheduled to be delivered in August 1990 or thereafter, but which the claimants were unable to ship. Typically in such claims, the claimant had signed a contract with the Kuwaiti customer to supply items or manufacture equipment prior to Iraq's invasion and, once Iraq invaded Kuwait, the claimant was forced to suspend or cancel performance of the contract because the goods could not be delivered. Several claimants operated as trading companies or manufacturer's representatives and claim for losses allegedly caused by the cancellation of orders from buyers in Iraq or Kuwait for goods to be supplied by manufacturers outside the region.

49. In these claims, the claimant usually seeks compensation for the lost profits that it expected to realize on the contracts that could not be completed. Many claimants also seek storage fees and freight costs for the onward shipment of the goods to a third party buyer, the cost of maintaining an increased or unproductive work force, and other similar costs.

50. A few claimants in this instalment are buyers, rather than sellers, which had purchased items from Kuwaiti suppliers. These claimants allege losses arising from the interruption of contracts. One claimant, alleging that it had a contract to purchase oil from a Kuwaiti supplier that was suspended due to Iraq's invasion, seeks recovery for the additional cost of obtaining oil from other suppliers. Another claimant, which had purchased construction equipment, materials and engineering services from a Kuwaiti contractor, seeks compensation for the project supplies, as well as the increased costs that it states it incurred to complete the contract, after the Kuwaiti contractor's business and the project supplies were looted by Iraqi troops.

2. Other losses

51. In addition to losses arising from sales contracts with Kuwaiti buyers, several claimants seek compensation for losses incurred in general commercial dealings in Kuwait. These include claims for lost revenue based on a course of dealing with a Kuwaiti buyer, the additional costs of replacement supplies and war risk insurance, the loss of tangible property from business premises in Kuwait, pre-paid rent for offices in Kuwait and evacuation costs for the claimant's employees.

52. As is the case with the Iraqi claims, several claimants seek compensation for the loss of profits on sales that the claimant had expected to achieve with its Kuwaiti customers, based on a long-standing course of dealing. These claimants allege that, had Iraq's invasion and occupation of Kuwait not occurred, they would have continued to engage in their normal and expected business activities, which would have led to future profits. These claims are not based on specific contracts but rather on future dealings expected from a history of previous business.

53. Although their primary business operations were located outside Kuwait, some claimants had branch offices or retail shops in Kuwait at the time of Iraq's invasion. These claimants typically seek compensation for the loss of tangible assets in the form of office furniture and equipment, stating that the items disappeared from their premises in Kuwait during the period of the occupation. The claimants also seek compensation for vehicles that were looted or destroyed during Iraq's invasion.

54. One claimant states that it had rented an office and a villa in Kuwait. At the time of Iraq's invasion, the claimant had pre-paid the rent for both of these premises for a period beyond 2 August 1990. The claimant has presented a claim to recover the rent paid for the period of the occupation.

55. Several claimants seek compensation for evacuation costs or payments to their employees who were evacuated from Kuwait soon after Iraq's invasion. The claimants paid their employees for the airfares from Kuwait and now seek compensation for these and other evacuation costs.

C. Claims involving parties outside Iraq or Kuwait

56. Nineteen claims in this instalment involve losses that allegedly occurred outside Iraq or Kuwait. These include claims for a general decline in business revenues during the period of Iraq's invasion and occupation of Kuwait. Other claims seek recovery for the destruction of goods in transit in the Middle East or for losses arising from the cancellation of contracts or the increased costs incurred in their performance.

1. Decline in business

57. Four Israeli claimants allege that the threat of military attacks against Israel, followed by the launching of Scud missiles by Iraq against Israel, resulted in a decline in sales or disruption of business operations and a consequent loss of revenue. Claimants assert that these attacks led to, *inter alia*, the closure of factories and other businesses, the suspension or decline in production, the loss of export sales, reduced business hours and increased employee absences. One Israeli retailer alleges a loss of profits because of the interruption of shipments to and from Israeli ports.

2. Destruction of goods or increased costs

58. Several other claimants allege that goods were damaged or destroyed when transportation operations in the Persian Gulf were delayed or re-routed and cargo could not be off-loaded as a result of Iraq's invasion and subsequent hostilities. Claimants typically seek compensation for the value of the goods or, where goods were resold, the difference between the original contract price and the resale price, as well as additional freight charges, storage costs and expenses of resale.

59. Compensation is also sought by claimants, both buyers and sellers, for the cost of additional premiums that they incurred to maintain war risk insurance during the period of the hostilities for the transport of commodities from ports in Saudi Arabia located, respectively, on the Red Sea and the northern Persian Gulf. One claimant seeks the financing costs on a loan to pay for additional production costs incurred because of a delayed shipment.

II. PROCEDURAL HISTORY

60. Pursuant to article 16 of the Rules, the Executive Secretary of the Commission reported the significant factual and legal issues raised by the claims in his twenty-fifth and twenty-sixth reports dated 13 October 1998 and 11 January 1999, respectively. Pursuant to paragraph 3 of article 16, a number of Governments, including the Government of Iraq, submitted their information and views on the Executive Secretary's reports. These responses were transmitted to the Panel pursuant to paragraph 1 of article 32 of the Rules.

61. The secretariat made a preliminary assessment of the claims in order to determine whether each claim met the formal requirements established by the Governing Council in article 14 of the Rules. As provided by article 15 of the Rules, deficiencies identified were communicated to the claimants and a deadline was set within which they had the opportunity to remedy those deficiencies.

62. Given the large number of claims under review, the volume of supporting documentation submitted with the claims and the complexity of the verification and valuation issues, at an early stage of the proceedings the Panel requested expert advice pursuant to article 36 of the Rules. This advice was provided by accounting and loss adjusting consultants (the "expert consultants").

63. A preliminary review of the claims was undertaken in order to identify any additional information and documentation required to allow the Panel to properly verify and value the claims. 6/ Pursuant to article 34 of the Rules, notifications were issued (the "article 34 notifications") in which claimants were asked to respond to a series of questions, and to provide additional documentation.

64. The Panel commenced its review of the claims in this instalment on 17 November 1998, the date upon which the claims were submitted to it by the Executive Secretary pursuant to article 32 of the Rules. At its first formal meeting, the Panel classified the claims as "unusually large or complex" within the meaning of article 38(d) of the Rules, in view of the complexity of the issues raised, the potential precedent-setting effect of the Panel's recommendations on the remaining import-export claims, the number of claims under review and the volume of documentation submitted with the claims.

65. In a procedural order dated 17 November 1998, the Panel instructed the secretariat to transmit to the Government of the Republic of Iraq the documents filed by the claimants for claims based on contracts with Iraqi parties and financed by a letter of credit issued by an Iraqi bank. Iraq was invited to submit its comments on such documentation and to respond to questions posed by the Panel by 17 May 1999. In addition, the Panel issued a procedural order to the claimants in question, which sought further

explanations with respect to the letters of credit and other aspects of the claims.

66. In June 1999, the Panel received Iraq's comments and responses to the questions issued by the Panel. In some instances, where further information was required to determine the matters that Iraq had raised, on 20 July 1999, additional communications were sent to the claimants involved seeking further evidence or explanations.

67. The information provided by the claimants and by the Government of Iraq in response to the article 34 notifications and the Panel's procedural orders was reviewed and taken into account by the Panel in the course of its deliberations.

68. Under the Panel's supervision and guidance, the expert consultants reviewed all the documents submitted in connection with each claim, including the claimants' responses to the article 34 notifications, the responses of the Government of Iraq to the Panel's questions and the responses of the claimants to the Panel's requests for further information. To the extent appropriate, generally accepted loss adjusting and accountancy procedures were used in verifying and valuing the alleged losses. The expert consultants prepared claim-specific reports that were taken into consideration by the Panel during its review of the individual claims and in making its recommendations set out in section X of this report.

69. On 13 October 1999, after the expiration of the 17 May 1999 deadline, the Government of Iraq submitted a further response with reference to the claims. This response could only be taken into account by the Panel to the extent that such consideration did not hinder its ability to review the claims within the time-frame established by the Governing Council.

III. EVIDENTIARY REQUIREMENTS OF THE COMMISSION AND THE PANEL'S OBSERVATIONS ON COMPLIANCE THEREWITH

70. The Panel deems it useful to comment on the extent to which the evidence submitted by claimants in the present instalment complies with the requirements laid down by the Governing Council.

A. Evidentiary requirements

71. The category "E" claim form was used by claimants for the filing of the claims. The claim form advised each claimant to submit "a separate statement explaining its claim ("Statement of Claim"), supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss". 7/ The claim form also advised each claimant to include in its Statement of Claim the following particulars:

"(a) The date, type and basis of the Commission's jurisdiction for each element of loss;

"(b) The facts supporting the claim;

"(c) The legal basis for each element of the claim;

"(d) The amount of compensation sought, and an explanation of how this amount was arrived at." 8/

72. In addition, as described in section II above, the claimants were given the opportunity to further explain and document their claims.

73. When evaluating the claims, the Panel must apply the general and specific requirements for the production of evidence established by the Rules and other decisions of the Governing Council.

74. General guidance on the submission of evidence is provided by article 35 of the Rules. Paragraph 1 of article 35 states that "[e]ach claimant is responsible for submitting documents and other evidence which demonstrate satisfactorily that a particular claim or group of claims is eligible for compensation pursuant to Security Council resolution 687 (1991)". Pursuant to paragraph 3 of article 35, corporate claims "must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and amount of the claimed loss". Thus, the evidence required to justify a recommendation for compensation relates to the existence of the alleged loss, to causation and to the amount of the alleged loss. The Governing Council has emphasized the mandatory nature of this requirement, stating that "[s]ince these [category "E"] claims may be for substantial amounts, they must be supported by documentary and other appropriate evidence". 9/

75. It is for the Panel to decide "the admissibility, relevance, materiality and weight of any documents and other evidence submitted". 10/ The Panel's determination of what constitutes "appropriate evidence sufficient to demonstrate the circumstances and amount" of the loss will depend upon the nature of the loss alleged.

B. Observations of the Panel regarding the presentation of claims

76. Having reviewed the claims in the present instalment pursuant to the procedural and evidentiary standards outlined above, 11/ the Panel finds that it is for the claimant to provide appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss. In many cases, however, claimants failed both in their original submissions, and in their responses to the article 34 notifications and the Panel's procedural orders to discharge this burden. In some instances, claimants provided large volumes of documentation but failed to demonstrate how such documentation supported their claims. The Panel wishes to underline that it is not the duty of the Panel but, rather, that of the claimant to identify and substantiate each element of its claim and establish the causal link with Iraq's invasion and occupation of Kuwait.

77. A number of claimants asserted that they were unable to produce the necessary evidence because of the time that had elapsed since the events in question or because of the loss or destruction of relevant documents. The Panel does not accept the passage of time since the claim was submitted or the accidental destruction of the claimant's records as adequate reasons to relieve a claimant from its burden to produce sufficient evidence to substantiate its claim. It is incumbent upon a claimant to preserve all documents that may be relevant to the determination of a claim that is pending before this Commission. An exception can be made when it is shown that it was Iraq's invasion and occupation of Kuwait that made it impossible for the claimant to gather the proof required. This occurred, for example, in the case of the unavailability of records that were located in the branch of a Kuwaiti bank, which was destroyed during Iraq's invasion.

IV. JURISDICTIONAL EXCLUSION BASED ON THE "ARISING PRIOR TO" CLAUSE

A. General principles

78. As previously noted, in the majority of the transactions under review, shipments were made to Iraq prior to 2 August 1990, but under deferred payment terms requiring payment after 2 August 1990. Most claims involve deliveries that were made between 1987 and late 1989, under terms providing for payment by the Iraqi buyer in one to two years. Shipments that were delivered to Iraq shortly before Iraq's invasion of Kuwait usually carried equally long payment terms.

79. The law to be applied by the Panel is set out in article 31 of the Rules, which provides that the Commissioners will apply Security Council resolution 687 (1991), pertinent decisions of the Governing Council and, where necessary, other relevant rules of international law.

80. The jurisdiction of the Commission over claims arising from Iraq's invasion and occupation of Kuwait was established by paragraph 16 of Security Council resolution 687 (1991):

> "The Security Council [r]eaffirms that Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait."

81. The clause in paragraph 16 of Security Council resolution 687 (1991) relating to debts and obligations of Iraq "arising prior to 2 August 1990" has been interpreted in the report and recommendations concerning the first instalment of category "E2" claims. The "E2" Panel concluded that the "arising prior to" clause was intended to exclude from the Commission's jurisdiction the old debt of Iraq that had existed at the time of Iraq's invasion of Kuwait, including Iraq's substantial debt that had accumulated over the course of the war with the Islamic Republic of Iran. 12/

82. Throughout the 1980s, as the war between Iraq and Iran (1980-1988) affected the Iraqi economy, Iraq took steps to support its fledgling private sector, including the deregulation of certain sectors, and the privatisation of many farms, factories and small businesses. 13/ By the late 1980s, both the Iraqi private and public sectors were importing various types of products. Iraqi buyers progressively sought and obtained from foreign suppliers long or deferred payment terms for many types of goods, which the suppliers (including numerous claimants in this instalment) accepted at that time as part of doing business with Iraqi customers.

83. The "E2" Panel found that the entire Iraqi economy was distorted by the growth of Iraq's foreign debt during the 1980s with the consequence that some old debts may appear to be new as of 2 August 1990, such as rescheduled debt or debt resulting from the unusually long payment terms obtained by Iraq from foreign parties in the 1980s. 14/ The "E2" Panel considered that the rescheduling and unusually long payment terms masked the true age of the debt and, but for such terms, those debts and obligations would be part of the old debt and should also be excluded from the jurisdiction of the Commission. 15/

84. In the context of the construction and supply contracts before it, the "E2" Panel viewed the question of when a debt or obligation arose from the perspective of the performance of the contractor or the seller. The "E2" Panel found that, prior to Iraq's war with Iran and the rise of its foreign debt, three months was the outer limit of standard payment practice in Iraq. Accordingly, in defining the Commission's jurisdiction, the "E2" Panel excluded, not only Iraq's old debt that had accumulated during the war between Iran and Iraq, but also subsequent debts resulting from performance rendered by the claimant more than three months prior to 2 August 1990, that is, prior to 2 May 1990. 16/

85. This Panel is in agreement with the findings and conclusions of the "E2" Panel regarding the interpretation of the "arising prior to" clause in resolution 687 (1991) and will therefore use such findings and conclusions as a starting point when determining jurisdictional issues with respect to the claims before it.

B. Specific determinations

1. Iraqi private parties

86. The claims under review in the first instalment of the "E2" Panel were based on contractual obligations of agencies and public sector enterprises of the Government of Iraq. However, as noted above, numerous claims in the present instalment involve contracts with Iraqi private parties. The Panel must therefore determine whether the "arising prior to" clause of paragraph 16 of Security Council resolution 687 (1991) excludes from the Commission's jurisdiction not only obligations of Iraqi Governmental entities, but also those of Iraqi private parties, which arose prior to 2 August 1990.

87. The exclusion of paragraph 16 of resolution 687 (1991) refers to "debts and obligations of Iraq". However, according to widely-shared international definitions, "foreign debt" includes any debt "incurred both by the State (public debt) and its residents (private debt)". 17/ As previously discussed, in interpreting the circumstances underlying the "arising prior to" exclusion of resolution 687 (1991), the "E2" Panel also found that Iraq's accumulation of foreign debt during the 1980s distorted payment terms and trade practices with foreign suppliers. Since the

distortion resulting from Iraq's foreign debt would similarly affect both Iraqi private and state parties, the reasons underlying the "arising prior to" exclusion would also apply to Iraqi private parties. Moreover, to settle their debts, private parties depended on the availability of foreign exchange, which remained at all relevant times under the control of the Government of Iraq. The Panel concludes, therefore, that there should be no distinction between the debts and obligations of Iraqi public and private parties for the purposes of the "arising prior to" clause of resolution 687 (1991). 18/

2. Sales contracts financed by letters of credit

88. With reference to the claims in this instalment, the next issue to be determined by the Panel is how to apply the "arising prior to" clause to contracts for the sale of goods to an Iraqi purchaser financed by an irrevocable letter of credit issued by an Iraqi bank. In this context, it is necessary for the Panel to determine when the contractual obligation of the Iraqi purchaser arose. The Panel must also determine whether the obligation of the Iraqi issuing bank must be considered separately from the purchaser's obligation for purposes of the "arising prior to" clause; and, if so, when the obligation of the Iraqi issuing bank arose.

(a) Determination of performance under the sales contract

89. As noted, in the context of the claims before it, the "E2" Panel determined that the question of when a debt or obligation arose is determined by the claimant's performance. With respect to a seller's claim for the supply of goods, the "E2" Panel considered that "performance" would be taken to mean delivery of the goods by the seller pursuant to the terms of the contract. 19/ In the context of the supply contracts under review, it is necessary for this Panel to further define the meaning of performance for the purposes of the "arising prior to" clause. The Panel has considered whether the trading terms of each sales contract have to be taken into consideration in order to ascertain delivery or whether it is sufficient to rely only on the date of shipment. The Panel finds that shipment of the goods suffices to establish the date of performance, as it is generally the final step that must be performed by the seller in order to be entitled to payment under a sales contract. In addition, the date of shipment is readily discernible from an examination of the shipping documentation, such as a bill of lading or an airway bill. Thus, it provides an administrable criterion that can be consistently applied to all claims, regardless of the great variety of trading terms used in the contracts before the Panel.

(b) Determination of performance under the letter of credit

90. Since the instalment under review includes claims involving letters of credit, the Panel next determines whether the obligations of an Iraqi bank under a letter of credit should be considered separately from the

underlying sales contract; and, if so, what constitutes the beneficiary's performance for the purposes of applying the "arising prior to" clause under Security Council resolution 687(1991).

91. When a sales transaction is payable by letter of credit, the seller expects to receive payment from the issuing bank. Under general principles governing documentary credits, an irrevocable letter of credit constitutes a binding undertaking of the issuing bank to pay the beneficiary. The beneficiary is entitled to enforce the obligation of the bank to pay according to the terms of the credit. It is also well established that letters of credit are separate and independent transactions from the sales contract to which they relate and that defences under the sales contract are not, in principle, available to the bank. 20/ Therefore, the Panel finds that the beneficiary-seller may maintain a claim before this Commission based upon the obligation of the Iraqi bank to honour the letter of credit.

92. Provided that the stipulated documents required under the terms of the letter of credit are presented to the bank, and that the terms and conditions of the credit are complied with, the bank is under an obligation to make payment to, or to the order of, the beneficiary on the date(s) determinable in the credit. 21/ It is the presentation of the stipulated documents by the beneficiary that completes the performance of the beneficiary and triggers the obligation of the issuing bank to pay the letter of credit. Accordingly, the Panel finds that the presentation of the documents as specified in the letter of credit to the bank is the performance by the claimant that delineates the jurisdiction of the Commission under resolution 687 (1991) with respect to claims by a beneficiary-seller based on the non-payment of a letter of credit.

93. Many of the letters of credit under consideration in this instalment provide for payment at a maturity date well beyond the date of the delivery of the goods and the presentation of documents. Hence, the Panel must also address how to apply the "arising prior to" rule to letters of credit involving deferred payment terms.

94. As stated above, in banking practice, the issuing bank is unconditionally bound to pay according to the terms of the credit (e.g., whether at sight or on the maturity date stipulated in the credit), once the stipulated documents are presented to the bank and the terms and conditions of the credit are complied with. At that point, the bank's obligation is fixed and all that remains in order for payment to be made to the beneficiary is the passage of time until the payment maturity date. The Panel accordingly finds that, although a letter of credit may have called for payment after Iraq's invasion of Kuwait, where a claimant had performed its obligations under the letter of credit prior to 2 May 1990 the obligation of the issuing bank would have arisen prior to 2 August 1990 within the meaning of paragraph 16 of resolution 687 (1991) and is, therefore, outside the Commission's jurisdiction.

95. The Panel further determines, however, that, even where a claimant presented the stipulated documents to a bank on or after 2 May 1990, the date of shipment must have occurred no later than 21 days before the date of presentation of documents (which, in turn, must have occurred on or after 2 May 1990). The Panel establishes this rule in order to ensure that Iraq's old debt will not be masked by unusually long or deferred payment terms. A 21 day period has been selected by the Panel as representative of the normal time period for the presentation of documents after shipment is made under international banking practice. 22/

96. In summary, with respect to claims by a beneficiary-seller based on the sale of goods financed by a letter of credit issued by an Iraqi bank, the Panel may consider either the sales contract or the letter of credit as the basis for the Commission's jurisdiction. With respect to such determinations, the Panel formulates the following rules: 23/

(a) On the basis of the sales contract, the exporter's claim is within the Commission's jurisdiction if shipment of the goods took place on or after 2 May 1990;

(b) On the basis of the letter of credit, the exporter's claim is within the Commission's jurisdiction if the documents required under the letter of credit were presented to the bank on or after 2 May 1990, but only if the period between the shipment and the presentation of documents did not exceed 21 days.

C. Evidentiary requirements for jurisdiction

97. The proof required to establish that a claim is within the Commission's jurisdiction under the "arising prior to clause," varies depending upon whether the claim is considered on the basis of the sales contract or on the basis of the letter of credit. The Panel has examined the Commission's jurisdiction over each claim in the light of these two perspectives.

98. In the case of a sales contract, satisfactory proof of the claimant's performance for purposes of determining the Commission's jurisdiction includes the production of documentation that sufficiently represents proof of shipment and the date thereof, such as a bill of lading, airway bill or truck consignment note. 24/ With respect to a claim based on a letter of credit, proof of performance consists of evidence of the claimant's presentation to the correspondent bank of the documents required under the terms of the letter of credit. 25/ To prove the claimant's performance under a letter of credit, it is sufficient for the claimant to demonstrate that it properly presented the stipulated documents to the bank with whom it directly dealt. 26/

V. CONTRACTUAL LOSSES

99. The majority of claims in the present instalment concern contract-related losses. Accordingly, the Panel gives particular consideration to the requirement of directness under Security Council resolution 687 (1991) in the context of such losses. Firstly, the Panel examines the circumstances in which the non-performance of contracts with Iraqi, Kuwaiti and other parties may result directly from Iraq's invasion and occupation of Kuwait. Secondly, to the extent that the Panel finds that non-performance in such circumstances meets the directness requirement, the Panel next considers whether the resulting types of losses alleged to have been sustained by claimants constitute direct losses and are, thus, in principle compensable. Finally, the Panel reviews the principal evidentiary requirements that must be met for such losses to be compensable.

A. The requirement of directness

100. Security Council resolution 687 (1991) establishes that Iraq "is liable under international law for any direct loss, damage, ... or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait". In decisions 7 and 9, the Governing Council has provided guidance to panels as to how the "direct loss" requirement of resolution 687 must be interpreted.

101. Paragraph 21 of Governing Council decision 7 provides guidance on the requirement of directness for claims filed on behalf of corporations and other legal entities by enumerating five categories of acts or circumstances which meet the directness requirement. That provision reads:

> "21. These payments are available with respect to any direct loss, damage or injury to corporations and other entities as a result of Iraq's unlawful invasion and occupation of Kuwait. This will include any loss suffered as a result of:
>
> "(a) Military operation or threat of military action by either side during the period 2 August 1990 to 2 March 1991;
>
> "(b) Departure of persons from or their inability to leave Iraq or Kuwait (or a decision not to return) during that period;
>
> "(c) Actions by officials, employees or agents of the Government of Iraq or its controlled entities during that period in connection with the invasion or occupation;
>
> "(d) The breakdown of civil order in Kuwait or Iraq during that period; or

"(e) Hostage-taking or other illegal detention."

102. Of particular relevance to this instalment are the provisions in subparagraph (a) concerning military operations or threat of military action; subparagraph (c) relating to actions by Iraqi officials and controlled entities in connection with the invasion and occupation; and subparagraph (d) referring to the breakdown of civil order in Kuwait or Iraq. The scope and application of these enumerated acts and circumstances in the context of the present claims are discussed hereafter.

103. Governing Council decision 9, which addresses business losses, also provides guidance as to what may be considered to constitute "losses suffered as a result of" Iraq's unlawful invasion and occupation of Kuwait. Of particular relevance are paragraphs 6 to 11, relating to losses in connection with the breach or interruption of contracts, transactions that have been part of a business practice or course of dealing, and the effect of the trade embargo and related measures.

104. It is against this background that the Panel, in the following sections below, makes its findings regarding the direct loss requirement with respect to the contract claims under review.

1. Contracts with Iraqi parties

105. In this instalment, claimants allege that payment for goods delivered to customers in Iraq prior to 2 August 1990 was not made thereafter due to Iraq's invasion and occupation of Kuwait. The Government of Iraq maintains the view that its payments and the continuation of contracts were prevented by the embargo decreed by Security Council resolution 661 (1990) and the measures taken by a number of States pursuant to this resolution (hereinafter referred to as the "trade embargo"). Before assessing the legal issues raised by the claims, the Panel will review the factual circumstances relating to the causes of the losses alleged.

(a) Summary of relevant facts

106. Immediately after Iraq's invasion of Kuwait, several States implemented freezing orders in respect of the assets of Iraq and Kuwait located within their own jurisdictions. On 6 August 1990, Security Council resolution 661 (1990) imposed on Iraq and Kuwait an embargo in order to bring Iraq's invasion and occupation of Kuwait to an end and to restore the sovereignty and territorial integrity of Kuwait. Subsequently, on 16 September 1990, Iraq adopted Act 57 (1990). 27/ Pursuant to Act 57, Iraq held its foreign suppliers responsible for the effects of the embargo that were detrimental to Iraqi parties and it effectively prohibited its state organizations, corporations and citizens from making payments to these suppliers. This legislation confirmed previous declarations made by Iraqi officials announcing that Iraq had suspended payment of its foreign debt. 28/

107. The Panel finds that other events affected commercial dealings with Iraqi parties. The borders between Iraq and neighbouring countries were closed. The danger presented by military operations in the area, including Iraq's mine-laying activity in the Persian Gulf, severely disrupted transportation to, from and within the Middle East. 29/ Also affecting commercial activity were the mass exodus of foreign workers resident in Iraq, 30/ and Iraq's massive troop deployments in southern Iraq and Kuwait and along its borders with Iran, Turkey and Syria, as well as in strategic sea ports, immediately prior to and following the invasion of Kuwait. 31/ Iraq's removal of thousands of foreigners and their relocation to military, oil, and other strategic sites as "human shields", in some cases until December 1990, 32/ further discouraged the continuation of business operations by foreign corporations.

108. Iraq's failure to end its unlawful occupation of Kuwait led to the military operations of the Allied Coalition Forces to remove Iraq's presence from Kuwait on 16 January 1991. The considerable damage to the Iraqi infrastructure as a result of military operations is well documented. 33/ The allied operations targeted strategic sites in Iraq likely to have been employed in support of the Iraqi war effort. In particular, roads, bridges, electricity and other power installations were the subject of attack, as were production and manufacturing facilities that could have been used in support of the Iraqi military. As a result, key industries and services were severely damaged, including Iraq's communications systems, transportation infrastructure, banking and financial sector, fuel and electrical supply, power plants, oil refineries and oil storage facilities. 34/ Thus, substantial parts of the Iraqi infrastructure that would be necessary for ongoing commercial activity, or the resumption of normal commercial activity after the cease-fire, were destroyed in the campaign to remove Iraq from Kuwait.

(b) Legal analysis

109. With reference to claims based on contracts with Iraqi parties, the Panel must determine whether, considering the impact of the trade embargo, Iraqi obligations due under sales contracts and letters of credit, which were not paid after 2 August 1990, are "direct losses" for which Iraq is liable under Security Council resolution 687 (1991). If they are, the Panel must also address whether the non-payment of contractual amounts due after 2 March 1991, the date that armed hostilities ceased, may still be regarded as a "direct loss". Finally, the Panel also considers the directness requirement in the context of contracts with Iraqi parties that were interrupted as a result of the invasion.

(i) Actions by the Government of Iraq as a cause of direct loss and parallel causes

110. Under Governing Council decision 9, losses that are due solely to the trade embargo are not compensable. Paragraph 6 of decision 9 states: "The

trade embargo and related measures, and the economic situation caused thereby, will not be accepted as the basis for compensation". But it also states: "Compensation will be provided to the extent that Iraq's unlawful invasion and occupation of Kuwait constituted a cause of direct loss, damage or injury which is separate and distinct from the trade embargo and the related measures." 35/ Furthermore, decision 9 provides:

> "Where ... the full extent of the loss, damage or injury arose as a direct result of Iraq's unlawful invasion and occupation of Kuwait, it should be compensated, notwithstanding the fact that it may also be attributable to the trade embargo ... ." 36/

111. Thus, compensation may be awarded when Iraq's invasion and occupation of Kuwait are a separate and distinct cause of the loss, notwithstanding the existence of the trade embargo, and where the invasion and occupation and the trade embargo are found to be parallel causes of the loss. 37/

112. The Panel notes that the trade embargo adopted by the Member States of the United Nations was not intended to prevent Iraq from paying its debts to foreign suppliers with respect to goods delivered prior to Iraq's invasion. Rather, it was intended to prevent Iraq from receiving new supplies. In addition, the trade embargo and related measures were a reasonably foreseeable response to Iraq's invasion of Kuwait with the objective of forcing Iraq to vacate Kuwait without resorting to military force.

113. The Panel also finds that Iraq's adoption of Act 57 is a parallel cause of loss that subsisted until it was repealed after the end of the Gulf War hostilities. As noted above, article 7 of that law froze all "assets and funds, as well as the income accruing therefrom, which belong to Governments, institutions, companies and banks of States which have taken arbitrary decisions against Iraq". As also noted above, this legislation confirmed previous declarations made by Iraqi officials announcing that Iraq had suspended payment of its foreign debt. The Panel finds that these steps taken by Iraq, which have been condemned as null and void in paragraph 17 of Security Council resolution 687 (1991), 38/ constitute a cause for Iraq's failure to pay its foreign debt, separate and distinct from the trade embargo.

114. In addition, Iraq's refusal to end its unlawful occupation of Kuwait led, on 16 January 1991, to the military operations to remove Iraq's presence from Kuwait. These military operations, which were a foreseeable reaction to that refusal, resulted in extensive damage to Iraq's infrastructure that further hindered the payment by Iraq of its debts after the liberation of Kuwait. Accordingly, the Panel finds that these military operations, from their inception in January 1991 until their cessation on 2 March 1991, constituted a direct and separate cause of losses relating to Iraq's failure to pay its foreign debts, distinct from the trade embargo, within the meaning of Governing Council decision 7. In paragraphs 117-119

below, the Panel considers whether such military operations continued to operate as a cause of Iraq's non payment of its foreign debts after 2 March 1991.

115. Therefore, the Panel finds that apart from the trade embargo and its related measures, the actions of Iraq's officials during Iraq's occupation of Kuwait, the military operations conducted to liberate Kuwait, and the ensuing breakdown of civil order in Iraq, directly caused Iraq's failure to pay its debts after 2 August 1990. Accordingly, the Panel finds that the contractual obligations of Iraqi purchasers and Iraqi banks in respect of goods delivered before the invasion were generally not paid after 2 August 1990 as a direct result of Iraq's invasion and occupation of Kuwait. Losses resulting therefrom are, therefore, direct losses within the meaning of paragraph 21 of Governing Council decision 7.

116. On the other hand, where the evidence shows that freezing orders adopted by individual States were the sole cause of Iraq's non-payment, the claim is not compensable, consistent with the provisions of Governing Council decision 9. This result obtained in certain claims under review where the Iraqi issuing bank had previously authorized the payment of a letter of credit, but the advising bank outside of Iraq was unable to implement the transfer of funds due solely to freezing orders made in respect of Iraqi assets by the Government of the country where the bank was located.

(ii) Non-payment of amounts due after 2 March 1991

117. Since many of the sales contracts and letters of credit under which goods were delivered did not call for payment by the Iraqi buyer until 2 March 1991, the Panel must address the further question of whether the non-payment of amounts that fell due after the liberation of Kuwait was a direct consequence of Iraq's invasion and occupation of Kuwait.

118. Notwithstanding the fact that Iraq's unlawful occupation of Kuwait ended on 2 March 1991, and even assuming that Iraq repealed Act 57 in March 1991, the economic consequences of the military operations and the resulting damage to Iraq's infrastructure and the ensuing breakdown of civil order in Iraq would not have ended immediately after the cessation of the hostilities on 2 March 1991. 19/ The Panel therefore finds that losses that occurred thereafter (such as those resulting from Iraq's failure to pay its debts) may be compensable, as they may still have been suffered as a direct consequence of Iraq's invasion and occupation of Kuwait.

119. However, beyond a certain point in time, the economic and other consequences of Iraq's invasion and occupation of Kuwait would have abated. Consequently, beyond such point in time, Iraq's invasion and occupation of Kuwait can no longer be deemed to be the direct cause of Iraq's non-payment of its obligations. While it is difficult to assess with precision the time that Iraq would have needed to restore its capacity to resume payment

of its obligations, absent the trade embargo, the Panel finds that such period would not have exceeded five months beyond 2 March 1991. Consequently, for the purposes of the present instalment, the compensable period for losses arising from Iraq's failure to pay its debts shall be defined as 2 August 1990 to 2 August 1991.

(iii) Interruption of contracts with Iraqi parties

120. Certain claimants allege that the continued performance of contracts for the delivery of goods to Iraq became impossible after 2 August 1990 due to Iraq's unlawful invasion and occupation of Kuwait. As a consequence, goods had to be diverted and were resold at a price below the contract value or, where specially manufactured, disposed of at a minimal price. Other claimants allege that production of goods was suspended and seek compensation for unrecovered costs in performing the contract, as well as lost profits.

121. With regard to such circumstances, Governing Council decision 9, paragraph 9, states:

> "Where ... continuation of the contract [with Iraq] became impossible for the other party as a result of Iraq's invasion and occupation of Kuwait, Iraq is liable for any direct loss the other party suffered as a result, including lost profits. In such a situation, Iraq should not be allowed to invoke force majeure or similar contract provisions, or general principles of contract excuse, to avoid its liability."

122. The Panel finds that it would be unreasonable, in view of the prevailing conditions in Iraq, including the military situation in the Persian Gulf region, the breakdown of civil order in Iraq, and the repudiation of foreign obligations by Iraqi officials, to expect a supplier to ship goods to Iraq during the period of the invasion and occupation of Kuwait. 40/ The Panel further finds that the disruption of transportation services to, from and within the Middle East caused by military operations (or the threat thereof) in the area, including Iraq's mine-laying activity in the Persian Gulf and the enactment of Act 57 (the effects of which are described above), would have led, in themselves, to the suspension of contracts.

123. In the light of the circumstances described in the preceding paragraph, the Panel concludes that, in principle, the performance of contracts for the supply of goods to Iraq between 2 August 1990 and 2 March 1991 was rendered impossible as a direct result of Iraq's invasion and occupation of Kuwait. In addition, for the reasons discussed above at paragraphs 117-119, the performance of such contracts continued to be impossible until 2 August 1991.

124. Although the trade embargo may have contributed to the interruption of such contracts, the Panel finds that during the periods defined in the preceding paragraph, it would, at most, have been merely a cause parallel to the military events, breakdown of civil order and actions of Iraqi officials, described in paragraph 21 of Governing Council decision 7. Thus, the embargo does not preclude compensation for the losses arising from the interruption of the contracts with Iraqi parties during such periods.

125. The Panel also notes that, in many of the contracts where performance was interrupted between 2 August 1990 and 2 March 1991, payment by the Iraqi party was not due until after 2 August 1991. The Panel finds that Iraq is liable for any direct loss arising from the interruption of such contracts. This includes the costs reasonably incurred prior to the interruption of performance and, where appropriate, subject to the duty of mitigation, the expected profits under the contract apportioned over the period during which they would have been earned. Only amounts accrued within the compensable period may be awarded.

2. Contracts relating to Kuwait or Kuwaiti parties

126. Losses in Kuwait are alleged to have arisen out of the abrupt cessation of business in Kuwait on or shortly after 2 August 1990 and the destruction of assets by Iraqi forces. The Panel now considers the circumstances prevailing in Kuwait during and after Iraq's invasion and occupation. Thereafter, taking into account these factors, the Panel will assess the legal issues raised by the claims.

(a) Summary of relevant facts

127. The effects on the economy and population of Kuwait caused by Iraq's invasion and occupation are well documented in United Nations reports, reports prepared on behalf of the Kuwaiti Government, and in other panel reports of this Commission. 41/ Within hours of entering Kuwait, Iraqi forces seized control of the country, closing all ports and the airport, imposing a curfew, and cutting off the country's international communications links. Access to Kuwait by the sea was prevented by the laying of mines in its offshore waters. From the outset, a programme of detention and violence is reported to have been implemented in order to discourage resistance. 42/ In the months following Iraq's invasion, at least 50 per cent of Kuwaiti nationals and over 90 per cent of the expatriate population left Kuwait. 43/

128. Following the invasion, Iraq announced the formal annexation of Kuwait and exerted control over the Kuwaiti courts, abolished the Kuwaiti dinar and required its exchange in parity with Iraqi currency, asserted control over Kuwaiti property, and by 1 October 1990, required Kuwaiti citizens to exchange their Kuwaiti identity papers for Iraqi identity cards. 44/

129. Virtually all commercial complexes of the country were looted. 45/ The widespread destruction of property by Iraqi forces and the breakdown of civil order in Kuwait are reported to have affected nearly every sector of the Kuwaiti economy. As summarized in the Farah Report:

> "The physical infrastructure supporting basic services - electricity, water, waste disposal - had been rendered inoperative; ports largely destroyed; ... the financial system severely disrupted; foreign trade suspended; commerce considerably diminished; manufacturing paralyzed; and inventories plundered." 46/

130. With respect to damage to business properties, the Farah Report observed that

> "'[t]he looting of wholesale and retail establishments was massive and spared virtually no commercial centre, warehouse or large store ... virtually all commercial complexes of the country have been plundered. Wherever there were concentrations of retail businesses or establishments, a great number, if not all of them, have been looted ... for numerous large-, medium- and small-sized commercial firms, losses amount to 50 to 100 per cent of the merchandise stored there on 1 August 1990." 47/

131. Accordingly, the Panel recognizes that there were military operations and a breakdown in civil order in Kuwait during the occupation, which were directly caused by the Iraq's invasion and occupation of Kuwait and which could have resulted in the losses asserted in the claims presently under review.

132. After the liberation of Kuwait, the Government of Kuwait instituted payment and relief programmes for Kuwaiti nationals and a variety of other measures to alleviate the consequences of Iraq's invasion and occupation. These included measures such as the payment of salaries to Kuwaiti state and private sector employees and the Difficult Debt Settlement Programme, in which the Central Bank of Kuwait purchased from Kuwaiti banks and financial institutions, a portion of the debt owed to them by Kuwaiti individuals and corporations. 48/ Bank account deposits in Kuwait were restored to balances applicable as of 1 August 1990. These Government measures were intended to both re-stabilize the economy and to reduce the effects of Iraq's invasion and occupation.

133. It is against this factual background that the Panel makes its findings regarding the compensability of losses relating to contracts with Kuwaiti parties.

(b) Legal analysis

134. Claimants allege that, as a direct result of Iraq's invasion and occupation of Kuwait, they were not paid for goods previously delivered to

Kuwaiti buyers, or that goods could not be delivered or were lost or destroyed in Kuwait prior to delivery to the buyer. In terms of the requirement of directness, the Panel must consider three situations that arise in respect of the claims under review involving Kuwait and Kuwaiti parties. In the first situation, the Panel must consider the circumstances under which unpaid obligations of Kuwaiti parties for delivered goods may be regarded as "direct losses" for which Iraq is liable under Security Council resolution 687 (1991). Second, the Panel must address the requisite showing of directness with reference to goods that were lost or destroyed in Kuwait while in transit to a buyer in Kuwait or in another country. Finally, the Panel must address the directness requirement in the context of contracts that could not be performed or were rendered more costly, as a result of the invasion and occupation of Kuwait.

(i) Non-payment for goods shipped to Kuwaiti parties

135. The compensability of losses arising from a Kuwaiti party's non-payment of contractual amounts has been considered by other panels of Commissioners. In particular, the "E2" Panel has ruled that, unlike the situation of contracts with Iraq, claimants seeking compensation for the non-payment of amounts owed by Kuwaiti parties are required by paragraph 10 of Governing Council decision 9 to provide "specific proof that the [Kuwaiti] party's failure to perform was the direct result of Iraq's invasion and occupation of Kuwait". 49/ The "E2" Panel further observed that the failure of the Kuwaiti party to pay amounts owed

> "... should not, for example, stem from a debtor's economic decision to use its available resources to ends other than the discharge of its contractual obligation, for such an independent decision would be the direct cause of the non-payment and the resulting loss would therefore not be compensable. Adequate proof that a contracting party's inability to perform resulted from Iraq's invasion and occupation of Kuwait would include a showing that performance was no longer possible, for example because the contracting party, in the case of an individual, was killed or physically impaired, or in the case of a business, ceased to exist or was rendered bankrupt or insolvent, as a result of Iraq's invasion and occupation of Kuwait." 50/

136. This Panel adopts the approach taken by the "E2" Panel, in which other panels have concurred, 51/ and concludes that to satisfy the directness requirement of Security Council resolution 687 (1991), the claimant must make a specific showing that a Kuwaiti buyer's failure to pay for the goods was a direct result of Iraq's invasion and occupation.

137. Where the debt was overdue prior to 2 August 1990, or where a commercial dispute had already arisen between the parties prior to the invasion, as it appears in some of the claims under review, it will normally be presumed that the non-payment is not due to Iraq's invasion and

occupation of Kuwait. In such situations, the Panel finds that the loss is regarded as attributable to an independent economic decision of the Kuwaiti purchaser, rather than to the invasion and occupation.

138. A partial payment from the Kuwaiti buyer after the liberation of Kuwait in full settlement of a claim does not necessarily preclude a claim for the balance. However, the fact that the buyer had partially paid an invoice for the goods delivered may suggest the buyer's ability to pay the balance, or even the existence of a commercial dispute relating to the goods, neither of which is attributable to Iraq's invasion and occupation of Kuwait.

139. The Panel is mindful that the Kuwaiti buyer may have also sought compensation from the Commission for the loss of goods for which it has not paid the claimant-seller. In such circumstances, as between two parties who sustained a loss relating to the same transaction, only the party who suffered the actual loss will be awarded compensation.

(ii) Goods lost or destroyed in transit

140. In the present instalment, a number of claims are submitted in respect of goods lost or destroyed in Kuwait prior to delivery to a Kuwaiti buyer or to a buyer located in a third country. As alleged by the claimants, goods were looted or destroyed by Iraqi troops while located in a dock or warehouse at a Kuwaiti port or a holding area at Kuwait airport, or were lost amid the civil disorder that occurred during and in the aftermath of Iraq's invasion and occupation of Kuwait.

141. Under such circumstances, the provisions of paragraph 21 of Governing Council decision 7, including military actions and the breakdown of civil order in Kuwait provide, in principle, adequate bases for a finding of direct loss.

142. However, two questions concerning goods lost in transit remain for the Panel to address: the first is the impact of contractual provisions relating to the transfer of title or risk of loss upon the compensability of the claim; the second concerns the requisite showing of a causal link between the claimant's losses and Iraq's invasion and occupation of Kuwait.

143. In certain claims in this group, at the time when the goods were lost, the title to the goods or the risk of loss may have already passed to the other party under the terms of the contract. 52/ The Panel finds that, irrespective of whether the risk of loss or title to the goods had passed to the buyer under the contract, provided that multiple recovery for the same loss is avoided, a claim for compensation may be maintained by a seller who has not been paid for the goods, since delivery of the goods to the buyer was prevented due to Iraq's invasion of Kuwait and the claimant has incurred an actual loss.

144. The above principle also applies regardless of which party bore the loss under a force majeure provision in the contract. In this respect, specific guidance is provided by paragraphs 9 and 10 of Governing Council decision 9, which state that Iraq may not invoke or be relieved from its responsibility by force majeure contractual provisions. Thus, where the claimant is a buyer who assumed force majeure risks for losses due to acts of war under a sales contract, it may nevertheless seek compensation before this Commission based on Iraq's liability under resolution 687 (1991).

145. The remaining question involves the evidence that is required to prove claims for goods lost in transit. The Panel is mindful of the practical difficulties of the claimants in obtaining specific proof of the circumstances in which the goods were lost. The claimants operated outside Kuwait, usually without a presence in Kuwait. In a number of claims, the claimant is only able to show that the goods had arrived in Kuwait at or near the time of the invasion, and the claimant was unable to trace them after the invasion. Also, in a number of cases, the goods were not destined for Kuwait but were only in Kuwait to be transferred to another carrier for transmission to a buyer in a third country.

146. In either case, it is unlikely that the claimant could ascertain the disposition of the goods in Kuwait and their loss during Iraq's occupation of Kuwait. The widespread destruction of property by Iraqi forces, and the breakdown of civil order in Kuwait caused by Iraq's invasion and occupation, is described above. 53/ As noted, particularly affected were areas of the docks and warehouses at Kuwaiti ports and at the airport. Since Iraq's invasion occurred at the height of the Persian Gulf summer, many Kuwaiti nationals and expatriates were on holiday outside Kuwait, business activities had decreased and there was an accumulation of goods and equipment in the warehouses and docks. Moreover, Kuwaiti workers were often required to evacuate in haste on or shortly after 2 August 1990, which left these locations, and the goods stored at them, unguarded.

147. Based on the above factual circumstances, the Panel formulates the following rules with reference to the claims under review involving goods lost in transit:

(a) The Panel finds that a claim based on goods lost in transit must be substantiated by evidence of shipment to Kuwait (such as a bill of lading, airway bill, or freight receipt), from which an arrival date may be estimated, and by evidence of the value of the goods (demonstrated by, for example, an invoice, contract or purchase order);

(b) The Panel is of the opinion that the further away the arrival date is from the date of Iraq's invasion of Kuwait, the greater the possibility that the goods were collected by the buyer. Thus, in the absence of evidence to the contrary and in the light of the circumstances discussed above, it is reasonable to expect that non-perishable goods, arriving in Kuwait within two to four weeks before the invasion, had not yet been collected by the buyer. 54/ Accordingly, the Panel determines that, where goods arrived at a Kuwaiti sea port on or after 2 July 1990 or at the Kuwait airport on or after 17 July 1990 and could not thereafter be located by the claimant, an inference can be made that the goods were lost or destroyed as a direct result of Iraq's invasion and occupation of Kuwait and the ensuing breakdown in civil order;

(c) With respect to foodstuffs and other perishable goods that normally would have been promptly collected by the buyer, or where the evidence shows that it had been the practice of the buyer to collect the goods at an early date, the Panel concludes that further corroboration of the fact that the goods did not reach the buyer or that they were lost during Iraq's invasion may be required. Consequently, in such cases, there will be a greater burden on claimants to produce specific evidence of the loss. 55/

(iii) Interruption of contracts with Kuwaiti parties

148. A number of claimants seek compensation for losses due to the interruption of contracts with Kuwaiti parties, on the basis that their continuation became impossible after 2 August 1990 as a result of Iraq's invasion and occupation of Kuwait. As is the case with Iraqi claims, the claimants state that goods had to be diverted and resold to a third party at a price below the contract value. Other claimants allege that they were unable to resell the goods, either because they were specially manufactured to the buyer's specifications or, despite reasonable efforts, no alternative market could be found. A few claimants allege that they suspended manufacture of the goods and seek the profits that they expected to earn on the contract had Iraq's invasion not taken place.

149. For reasons previously discussed in paragraphs 127-132, in such situations, provided a causal link between the claimant's losses and Iraq's invasion is established, the provisions of paragraph 21 of Governing Council decision 7 and paragraph 10 of decision 9 provide adequate bases for a finding of direct loss as a matter of principle.

150. The language of paragraph 10 of Governing Council decision 9 also requires the Panel to consider whether the parties could have resumed the transaction after the cessation of hostilities, subsequent to the lifting of the trade embargo on 3 April 1991. The Panel determines that this consideration is only relevant where, at the time of Kuwait's liberation, production had been suspended or goods were undelivered and not resold. It is not applicable to situations where the seller had already disposed of the goods to a third party in an effort to mitigate its losses. 56/

3. Contracts involving parties outside Iraq or Kuwait

151. Losses relating to contracts involving parties outside Iraq and Kuwait may be compensable insofar as non-performance was directly caused by

Iraq's invasion and occupation of Kuwait and, in particular, by military operations or threat of military action in the areas described by the "E2" Panel.[57] Particularly relevant to the claims under review are several findings of the "E2" Panel in respect of the requisite causal link between Iraq's invasion and occupation of Kuwait and the loss alleged by the claimant. The "E2" Panel has concluded that a loss outside Iraq or Kuwait may be regarded as "direct" where it arose in a location that was the subject of "actual and specific military operations" or a "credible and serious" threat of military action which was intimately connected to Iraq's invasion and occupation and was within Iraq's actual military capability (the "compensable areas").[58]

152. This Panel has considered the "E2" Panel's interpretation of the directness requirement, as well as its definition of compensable areas, and adopts them insofar as these are applicable to the claims in this instalment. The following are the relevant findings of the "E2" Panel concerning the locations and periods during which military operations or threat of military action existed:[59]

Compensable areas[60]	Relevant period
Saudi Arabia (within the range of Iraq's Scud missiles)	2 August 1990 - 2 March 1991
Persian Gulf north of the 27th parallel	2 August 1990 - 2 March 1991
Israel	15 January 1991 - 2 March 1991

153. In keeping with the foregoing, where the claimant shows that performance of a contract involving parties outside Iraq and Kuwait was to occur within the compensable areas within the above periods, and that performance was prevented by Iraq's invasion and occupation of Kuwait, a claim for losses arising in connection with that contract is compensable in principle. Thus, for example, a seller may recover for the damage or destruction of goods whose delivery from, to or within a compensable area, was prevented by military operations in the region.

B. Compensation for contract losses

1. General principles

154. Once it has been determined that the non-performance of a contract was directly caused by Iraq's invasion and occupation of Kuwait, as discussed in the previous section of this report, the Panel must determine, given the wide variety of losses alleged by the claimants, which types of consequences or losses constitute a "direct loss" within the meaning of Security Council resolution 687 (1991), and, in that connection, the measure of compensation. This approach applies to all the contractual claims under review, without regard to whether the claim is based on a contract with an Iraqi, Kuwaiti or third party.

155. The Panel is mindful that the obligation of Iraq that is being enforced is Iraq's liability under Security Council resolution 687 (1991) and that its role is not to adjudicate contractual disputes between the claimant and an Iraqi, Kuwaiti or other contracting party. Thus, general principles of contract law that are found in most municipal law systems will only be used as a tool for the purposes of determining the compensability of contract losses, including the measure of the compensation to be awarded.

156. Security Council resolution 687 (1991) establishes Iraq's liability for any direct loss as a result of Iraq's unlawful invasion and occupation of Kuwait. In this context, the Panel interprets "direct loss" to mean only losses that could reasonably have been foreseen at the time Iraq invaded and occupied Kuwait. With reference to the contracts under review, any direct loss is generally one that would reasonably be expected to occur given the nature and terms of the underlying contract, the cause of the non-performance or impossibility to perform and other relevant circumstances.

157. The standard measure of compensation for each loss that is deemed to be direct should be sufficient to restore the claimant to the same financial position that it would have been in if the contract had been performed. 61/ The claimant should not be placed in a better position than it would have been in, had the contract been performed.

2. Specific applications

(a) Non-payment for delivered goods

158. Where a compensable claim is based on the non-payment for goods received by the buyer, the Panel finds that an appropriate measure of compensation is the contract price, plus any reasonable incidental costs directly resulting from the non-payment, such as, for example, banking charges for the cancellation of letters of credit that were not honoured. This measure of compensation should normally be adequate to restore the claimant-seller to the same position as if the contract had been performed.

159. In the present instalment, compensation is also sought in respect of interest payments on loans taken out by the seller to buy, produce or transport goods, interest charges incurred by a seller who was extended credit by a bank on the basis of the buyer's receivables and loss of business with other customers or damage to the claimant's credit with banks or customers. These losses allegedly arose from the impact of the non-payment upon the conduct of the claimant's business or its dealings with third parties. Absent a specific showing that such losses would reasonably have been expected to occur as a result of the non-payment in question, the Panel finds that, under the circumstances present in the claims under review, they are too remote to be the direct result of Iraq's invasion and occupation of Kuwait.

160. Where numerous deliveries are unpaid by the buyer or where the buyer was the main source of revenue for the claimant's business, compensation is often sought by claimants for far-reaching losses alleged to have resulted from the buyer's non-payment. Claimants state, for example, that the non-payment created cash flow problems that resulted in the claimant's inability to meet its own obligations. As a consequence, the claimant asserts that its credit was damaged or it was forced to reduce its operations or was rendered bankrupt and that this, in turn, resulted in damage to the claimant's goodwill and business reputation. The Panel finds that such claims are based on a series of intermediate events between the non-payment and its effects on the claimant's business, which are remote from the invasion and are thus not a direct consequence of the invasion. Such losses, as presented in this instalment, are therefore not compensable.

(b) Interrupted contracts

161. Where the claimant-seller has been unable to deliver the goods or the performance of the contract has been otherwise interrupted and the goods have been resold, the Panel determines that the normal measure of compensation is the difference between the original contract price and the resale price, plus any reasonable incidental costs. Any expenses saved by the non-delivery and any gains on the resale transactions are to be offset against the losses incurred.

162. In such cases, reasonable incidental costs include expenses incurred in stopping delivery; transportation and other costs to return the goods or dispatch them to another buyer; and storage fees and maintenance costs pending resale. Expenses that may also be compensable in principle are advertising costs and other costs to resell the goods; health or safety inspection fees; relabelling and repackaging costs; retooling or redesign costs; and other expenses incurred in the sale of the goods to third parties. Such costs must be appropriate in nature and reasonable in duration. 62/

163. In situations where, despite reasonable efforts, the goods could not be resold, for example, where they were specially manufactured to the specific demands of the customer, the Panel determines that the claimant may recover the contract price, less salvage value and expenses saved, plus any reasonable incidental costs.

164. If the claimant discontinued performance before the manufacturing process was completed because of the impossibility of delivery, the Panel finds that the appropriate measure of compensation is normally the actual costs incurred plus the lost profit, proportionate to the degree of fulfilment of the contract that the claimant could reasonably have expected to earn on the contract. These costs may include "variable costs" plus reasonable overhead costs, minus credit for any proceeds of resale and costs saved. 63/

165. As is the case with the claims based on non-payment, the claimants seek a variety of special costs that are collateral to the contract. Among these are governmental export incentives that were lost when goods could not be delivered (or were not paid for). Claims are also made for alleged losses arising in connection with the claimant's business relations with third parties. Thus, for example, claimants seek compensation for interest payments on loans and other financing costs incurred either in connection with the interrupted contract, or in respect of their commercial operations in general. Consistent with its findings set out in paragraph 159 above, the Panel concludes that such losses are indirect and non-compensable, in the absence of exceptional circumstances.

166. In several claims under review, claimants which had long term contracts to supply goods seek compensation for the profits that they had expected to earn on the remaining unperformed portions of the contracts had the invasion not occurred. The Panel finds that, in view of the claimant's duty to mitigate its losses, an award of lost profits for the entire duration of the contract is inappropriate. In such situations, lost profits for a reasonable period of time may be awarded, provided they can be established with reasonable certainty. The Panel considers as particularly relevant to such a determination, the time period necessary for the business in question to recover from the effects of Iraq's invasion by, for example, locating another market and reallocating its resources to other business activities. In determining the length of the compensation period, the Panel also regards as relevant the complexity of the contract, its length and its importance in relation to the total business operations of the claimant.

167. In this instalment, one claimant, having resold goods originally destined for Kuwait in another market for their full value, nevertheless seeks compensation for the profits it expected to realize from sales of the same products in that second market. The claimant argues that, had it not been forced to divert the goods destined for Kuwait due to Iraq's invasion, it would have sold two sets of items, and made two profits, instead of one. The Panel finds that the claim for the profit lost on the second sale is an indirect loss and that compensation should be limited to the difference, if any, between the original contract price and the resale or market value of the goods.

168. In a few claims in this instalment, the claimant had contracted to buy goods or equipment from a Kuwaiti seller and the contract was allegedly interrupted due to Iraq's invasion of Kuwait. The Panel decides that, as a general rule, where goods have not been delivered due to Iraq's invasion of Kuwait, the buyer may recover compensation for the difference between the contract price and the cost of replacement goods, if purchased in a reasonable manner and within a reasonable time after the contract was interrupted. In addition, the buyer may recover reasonable incidental costs directly resulting from the interruption of the contract.

C. Evidentiary requirements for contract-related losses

169. The essential facts that the Panel finds must be proven by a claimant to establish that a contract-related claim is compensable are outlined hereinafter.

170. For claims based on non-payment by the buyer or interruption of performance, the existence of a contractual relationship was first ascertained. The Panel then determined whether the claimant had rendered the performance required under the contract and ascertained the payment terms, including the price of the goods and the due date for payment. Thereafter, an examination was made to verify that the non-payment or the inability to perform the contract directly resulted from Iraq's invasion and occupation of Kuwait.

171. Where performance consisted of the delivery of goods, proof of shipment was required. As evidence of shipment, the Panel normally required the submission of transportation documents, such as a bill of lading or an airway bill. If provided in conjunction with other evidence, an acknowledgment of receipt by the buyer, or confirmation from an independent source that shipment was made, was usually regarded as sufficient.

172. Where a claim is based upon the failure of an Iraqi bank to honour a letter of credit, the claimant is required to produce, in addition to the letter of credit, proof that all documents stipulated by the letter of credit were presented to the corresponding bank in a timely fashion and that the terms of the credit were otherwise complied with.

173. Where the claim involved losses alleged to have arisen from the interruption of a contract, the Panel determined whether a suspension of performance was substantiated, together with proof of manufacture or expenditures incurred prior to the suspension. In respect of such claims, the production of only a letter of credit by the claimant was normally deemed insufficient to prove the existence of the contract upon which the claimant based its claim.

174. Claims for goods lost in transit were reviewed in accordance with the standards described in paragraph 147 above.

175. The special requirements relating to claims based on the non-payment of contractual obligations by Kuwaiti or third parties are set out in paragraph 135 above.

176. Where a claimant has satisfied the evidentiary criteria outlined above, the compensable loss has been valued in accordance with the guidelines regarding the measurement of contract losses set out in section B above.

VI. NON-CONTRACTUAL LOSSES

177. In addition to contract-related losses, the claimants in this instalment allege a variety of other losses. These include claims for the loss of profits that did not arise from specific contracts, but rather from general business dealings with Iraqi and Kuwaiti customers, as well as with other parties. Among these are claims stemming from a decline in business, increased cost of operations or cancelled operations. Other claims relate to tangible property losses, losses in connection with premises in Iraq or Kuwait and evacuation costs.

A. The requirement of directness

178. The requirement of directness applies to non-contractual losses as well as contractual losses. Guidance as to the application of the requirement of directness is contained in Security Council resolution 687 (1991) and Governing Council decisions 7 and 9 quoted above in paragraphs 100 to 101 and 103. The scope of the requirement is discussed in the context of the discussion of individual loss types below.

1. Decline in business and course of dealing

179. In the present instalment, claimants located outside Iraq and Kuwait seek compensation for a general decline in the revenue of their business during the period of Iraq's invasion and occupation of Kuwait. Others seek compensation for losses based on transactions with customers in those locations that had been part of a past business practice or course of dealing that was interrupted by Iraq's invasion and occupation of Kuwait.

180. The "E2" Panel has previously considered decline in business losses in the context of claims relating to tourism and to the transportation industry. The "E2" Panel drew a distinction between the situation where a claimant was based in or maintained a presence in a compensable area, and that where a claimant was based outside a compensable area and did not maintain a presence within that area. A "presence" was defined by the "E2" Panel as the maintenance of a branch, agency or other establishment. 64/

181. With respect to decline in business losses, the "E2" Panel held that such losses are in principle compensable to the extent that they are a direct result of Iraq's invasion and occupation of Kuwait. 65/ Dealing with claimants based within a compensable area, the "E2" Panel determined that compensation may be awarded "for profits which, in the ordinary course of events, [the claimant] would have been expected to earn and which were lost as a result of a decline in business directly caused by Iraq's invasion and occupation of Kuwait". 66/ The "E2" Panel concluded that, where a claimant based outside a compensable area maintained a presence within that area, decline in business losses are compensable in principle under the same criteria. 67/

182. This Panel agrees with these determinations and adopts them with reference to the decline in business claims under review. The Panel also concurs with the "E2" Panel's findings in respect of the appropriate method to value such losses. 68/

183. The "E2" Panel also concluded that claims for decline in business made by claimants based outside a compensable area and without a presence in the compensable area are to be evaluated under paragraph 11 of Governing Council decision 9, which governs the compensability of claims for losses relating to a transaction that has been part of a previous business practice or course of dealing. 69/

184. Paragraph 11 of decision 9 recognizes that Iraq may be liable for losses relating to a transaction that has been part of a business practice or course of dealing, but limits the conditions under which such claims are compensable. Paragraph 11 provides:

> "Where a loss has been suffered relating to a transaction that has been part of a business practice or course of dealing, Iraq is liable according to the principles that apply to contract losses. No liability exists for losses related to transactions that were only expected to take place based on a previous course of dealing."

185. In the context of the present claims, it appears that in this provision the Governing Council has recognized that claims may be brought for the interruption of business dealings with Iraqi or Kuwaiti customers that were part of an ongoing arrangement or series of previous sales. In determining such claims, this Panel also adopts the E2 Panel's interpretation of paragraph 11, made in the context of decline in business claims.

186. Accordingly, the Panel concludes that claims based on transactions that had been a part of a business practice or course of dealing, as well as claims for decline in business that are made by a claimant without a presence in the compensable area, are compensable only under the narrow limitations of paragraph 11. First, the claimant must show that there was a regular course of dealing in the past. Second, the claimant must demonstrate that "a consistent level of income and profitability had been realized from such dealings". 70/ Third, the claimant must demonstrate that the course of dealing evinces "a well-founded expectation of further business dealings of the same character with the same party under readily ascertainable terms". 71/ The Panel finds that a mere showing of past earnings from operations in locations within the compensable areas will be insufficient to establish a compensable claim based on a course of dealing. 72/

2. Increased cost of operations

187. Certain increased costs of operations may have been directly caused by Iraq's invasion or occupation of Kuwait, depending on the nature of the costs and whether such costs related to operations within the compensable areas during the relevant periods.

188. In particular, several claimants in this instalment have sought to recover the additional costs of war risk insurance premiums imposed by underwriters after the invasion of Kuwait in connection with the transportation of goods or commodities through the Middle East, in the vicinity of the Red Sea and the Persian Gulf. The "E2" Panel in its third report concluded that additional war risk insurance premiums may be regarded as a direct loss that resulted from Iraq's invasion and occupation of Kuwait, only where these costs were incurred in respect of operations within the compensable areas during the relevant periods. 73/ Thus, claims for such costs incurred in respect of operations to, from, or through those areas are, in principle, compensable. 74/

3. Other losses

(a) Tangible property losses

189. Claimants seek to recover the value of tangible property lost or destroyed at premises in Iraq or Kuwait, such as furniture, vehicles and office equipment.

190. Consistent with the determination of the "E2" Panel in its third report, 75/ the Panel finds that tangible property losses sustained by claimants in Iraq and Kuwait between 2 August 1990 and 2 March 1991 are "direct losses" if the claimant has demonstrated that the assets were in those locations as of 2 August 1990, and that such assets were lost or destroyed during Iraq's invasion and occupation of Kuwait.

(b) Advance rental payments

191. Some claimants seek compensation because of their inability to use rented premises in Kuwait during the period of Iraq's occupation for which the claimants had paid advance rent.

192. The Panel agrees with the determination of the "E2" Panel in its first report that losses arising from advance rental payments in Iraq and Kuwait are compensable if the claimant's "inability to receive the benefit of the amounts paid in rent during the relevant period was the direct result of Iraq's invasion and occupation of Kuwait". 76/ However, where such a claim is submitted together with a separate claim for loss of profits, rental payments will not be compensated as a separate loss, but will be assessed as part of the claim for lost profits. 77/

(c) Payment or relief to others

193. Some claimants seek to recover the costs incurred in evacuating their employees from locations in Kuwait. In keeping with Governing Council decision 7 and the recommendations of other panels, the Panel determines that the costs of evacuating personnel from Iraq or Kuwait from 2 August 1990 to 2 March 1991 are compensable in principle. 78/ However, if the persons would have been repatriated in any event (e.g., upon the expiry of their employment contracts) only the additional costs directly attributable to Iraq's invasion and occupation of Kuwait are compensable.

B. Evidentiary requirements for non-contractual losses

194. The evidentiary requirements to establish losses allegedly sustained as part of a course of dealing or resulting from a decline in business are described in paragraphs 179 to 186, above. With regard to claims for increased cost of operations, such requirements are described in paragraphs 187-188. The Panel has considered the criteria applied by the "E2" Panel in respect of the appropriate method to verify and value claims for compensation based on tangible property losses, evacuation costs, payment or relief to others and adopts them with reference to such claims under review in this instalment.

VII. MITIGATION OF LOSSES

A. General duty to mitigate

195. The claims in this instalment present the issue of the scope of a claimant's duty to mitigate its losses. The Governing Council has established that claimants before the Commission are under a duty to mitigate their losses and that "[t]he total amount of compensable losses will be reduced to the extent that those losses could reasonably have been avoided". 79/ Paragraph 9 (IV) of decision 15 confirms that the duty to mitigate applies to all types of losses, including, among other things, contract losses and damage to an ongoing business. 80/

196. Many claimants resold goods that could not be delivered to Iraq or Kuwait. They normally seek compensation for the difference between the original contract price and the resale price or for the lost profits expected in the original transaction. Other claimants made no attempt to resell the goods, but nevertheless seek the contract price of the goods or the difference between the contract price and the salvage value of the goods. A few claimants allege that, because they lacked the requisite documentation, having already forwarded it for payment to the bank or the buyer, they were unable to retrieve the goods shipped.

197. Some claimants state that, once it became apparent that manufactured goods could not be delivered to Iraq or Kuwait, they ceased manufacture and resold the component parts for scrap. A few claimants completed the manufacture and sold the goods to third parties. Such claimants seek to recover, respectively, either the difference between the contract price and the salvage value or the difference between the original and the resale price.

198. A number of claimants allege that they were unable to resell the goods because the goods were very specialized or they had been manufactured to the purchaser's specifications. Some claimants, notably in the food or pharmaceutical sectors, claim that items had been specifically packaged and labelled or bore the purchaser's name and could not be repackaged for sale to other buyers without violating industry health and safety standards or except at a prohibitive cost.

199. Claimants also seek to recover the costs that they incurred in mitigating their losses. Such costs include, for example, transportation and other costs associated with the return of the goods to the seller or delivery to a third party; storage fees and maintenance charges incurred to protect and preserve the goods pending resale; advertising costs; repackaging and relabelling costs; health and safety inspection or certification fees; and other expenses incurred in the sale to third parties. Some claimants have sought to recover such costs, notably storage charges, for several years after 2 March 1991 or even indefinitely.

200. Several panels have given consideration to the scope of the duty to mitigate in the context of the particular losses in the claims before them. For example, with reference to tangible property losses, the "E2" Panel decided in its first report that the duty to mitigate requires a claimant to do "no more than was reasonable under the circumstances"; but that when a loss could reasonably have been avoided, any award of compensation must be reduced to the extent that the claimant did not take reasonable measures. 81/ Similarly, the "E1" Panel has denied compensation for a portion of the storage and maintenance costs claimed by the seller on the basis that the seller had not taken timely steps to resell the goods. 82/

B. Specific rules formulated by the Panel

201. The Panel now must develop and apply certain guidelines to identify the reasonable and timely steps that a seller of goods should have taken in the context of the import-export claims in this instalment.

202. The Panel formulates the following guidelines with respect to the claims under review:

(a) Once it is established that a contract could not be performed or that performance could not be completed because of Iraq's invasion of Kuwait, the duty of mitigation would generally require that the claimant sell the undelivered goods to a third party in a reasonable time and in a reasonable manner. Storage of the goods for an indefinite period of time, in the absence of efforts to re-sell them, would not normally be considered by the Panel to meet this requirement of reasonableness. In addition, in discharging its duty to mitigate, the claimant must take reasonable steps to preserve the goods or commodities, in conditions appropriate to their nature, pending re-sale to a third party or resumption of performance of the original sales contract.

(b) With respect to the commencement of the duty to mitigate, the Panel determines the following:

(i) As regards perishable goods, the claimant should have taken steps to sell the goods to third parties promptly after Iraq's invasion of Kuwait on 2 August 1990. This applies whether or not the goods were destined for Iraq or Kuwait or for another country.

(ii) Concerning non-perishable goods, the Panel finds that different rules should apply depending on whether the original contract involved an Iraqi party or a Kuwaiti party.

(iii) As regards contracts with Iraqi parties, once Iraq invaded Kuwait on 2 August 1990 it was not unreasonable for a claimant to wait and see whether diplomatic or other efforts to bring an end to the occupation of Kuwait bore fruit and whether commercial circumstances might permit the resumption of the performance under the contract. However, upon the commencement of the military operations of the Allied Coalition Forces against Iraq on 16 January 1991, a claimant should have taken steps to resell its goods to third parties since, at that time, it should have been clear to the claimant that the possibility of continuing a commercial relationship with an Iraqi customer was seriously jeopardized. A similar rule applies to the situation where the goods were very specialized or where they had been manufactured to the Iraqi purchaser's specifications; in such situations, it would have been reasonable for a claimant to take appropriate steps to obtain some realizable value for the goods, even stripped of its customized parts. Therefore, with respect to specially manufactured as well as fungible goods destined for the Iraqi market, the claimant's duty to mitigate began on 16 January 1991.

(iv) The situation is different for those claimants engaged in transactions with a Kuwaiti purchaser for the sale of fungible or specially manufactured goods. Such claimants could have reasonably assumed that once the Allied Coalition Forces launched military operations, it was likely that Kuwait would be liberated and commercial relations would resume. Under these circumstances, it was not unreasonable for a claimant to further wait in order to resume performance with the original Kuwaiti purchaser or, failing such resumption, to look to potential third party customers to purchase the goods.

(c) The same time frames, as described in subparagraphs (b)(i) through (iii) above, apply with respect to goods that were partially manufactured when Iraq invaded Kuwait. In such situations, it would normally have been reasonable for a claimant to have elected one of two options to mitigate its loss: complete the manufacture and then attempt to resell the goods; or cease manufacture and resell the raw materials for scrap or salvage value.

203. Proceeding on the basis of the foregoing determinations, the Panel makes the following findings regarding the normal measure of compensation with respect to the claims under review:

(a) If the claimant has resold the goods in a reasonable manner and within a reasonable time, the measure of compensation is the difference between the original contract price and the price in the substitute resale transaction.

(b) The duty to mitigate does not require that the resale efforts of the claimant be successful. Rather, it requires that the seller make reasonable efforts to reduce its loss. Thus, where a claimant proves that it has made reasonable, although unsuccessful, efforts to resell the goods at an appropriate price, the compensation will be equivalent to the full amount of the contract price, less salvage value, together with reasonable costs of mitigation.

(c) If the claimant has failed to mitigate, the amount of compensation will reflect such failure. As a general rule, the claimant will only receive compensation in an amount equal to the difference between the original contract price and the fair market value of the goods when mitigation should have taken place.

(d) Expenses that are appropriate in nature and reasonable in duration, incurred by the claimant in taking reasonable steps to mitigate its losses, are direct losses in view of the fact that the claimant was under a duty to mitigate any losses that could reasonably be avoided. (See also paragraph 162 above). Accordingly, a claimant may, in principle, recover compensation for reasonable expenses such as transportation and other costs to return the goods or dispatch them to another buyer; storage fees and maintenance charges pending resale; advertising costs; repackaging and relabelling costs, and other expenses incurred in the sale of the goods to third parties. Lawyers' fees incurred in efforts to collect a compensable debt are considered a reasonable step in mitigation and are, likewise, compensable. 83/

(e) In addition, where the claimant has resold the goods at a profit, the profit will be used in the calculation of compensation to offset any losses suffered.

VIII. AVOIDANCE OF MULTIPLE RECOVERY

204. Taking into account the guidance of the Governing Council in paragraph 25 of decision 7, that "any compensation ... already received from any source will be deducted from the total amount of losses suffered", the Panel examines in this section various issues relating to the avoidance of multiple recovery.

205. The Panel is mindful of the fact that the Commission is not an exclusive forum, and some claimants have resorted to other legal means to recover their losses. The existence of an unexecuted legal judgment or arbitral award in itself does not preclude the claimant from recovering compensation before the Commission. Nonetheless, in an effort to avoid multiple recovery, in Governing Council decision 13, the Government of Iraq and other Governments were asked to provide information to the Commission about pending lawsuits or other proceedings against Iraq relating to losses resulting from Iraq's invasion and occupation of Kuwait. Similarly, in questions from the Panel, both the claimants and the Government of Iraq have been asked to provide the Panel with information about claims against Iraq in national courts or other fora and about the recovery of compensation for the same losses as those alleged in the claims.

206. In some cases, the claimant alleges that a judgment or award that has been satisfied does not cover the entire loss and it seeks compensation for the remaining unrecovered loss. Under these circumstances, the claimant must provide sufficient evidence to enable the Panel to determine which portion of the claim, if any, has not been compensated by other sources; and only with regard to that unrecovered portion will the Panel proceed to consider the claim.

207. A claimant which has already been paid by an insurer is entitled to pursue a claim for recovery of the uninsured portion of its losses. However, in such circumstances, it is incumbent upon the claimant to establish which part of the claim was not covered by the insurance. Some claimants seek compensation in respect of losses for which they have received an indemnity from their insurers. Such claims are not admissible unless the claimant produces a mandate from the insurance company confirming that the claimant is authorized to seek in its own name compensation on behalf of the insurer.

208. Another aspect of the avoidance of multiple recovery is the situation where the same loss is alleged by several claimants before this Commission. In a number of claims under review, compensation for the same loss has or may be claimed by two different claimants. This situation typically arises in competing claims by a foreign seller and a Kuwaiti buyer in respect of goods lost in transit. Another example is a transaction involving a manufacturer and a State trading organization which contracted to supply the manufacturer's goods to foreign buyers.

209. The Panel must ensure that Iraq is not required to pay compensation twice for the same loss. To that end, the Panel has requested the secretariat to determine whether other claims have been submitted to the Commission with respect to the same sales transactions as those under review in the present claims. For example, as regards goods lost in transit, where the claimant alleged that it sold goods to a Kuwaiti buyer who had not paid for the goods, the secretariat verified whether the buyer had filed a claim for loss of the same goods and, if so, whether the buyer can demonstrate that it had paid the seller (the claimant in this instalment). Similarly, with regard to claims submitted on behalf of insurance companies, the Panel requested the secretariat to ascertain whether the insurance company had itself claimed for the loss before the Commission.

210. In keeping with Governing Council decision 13, 84/ where a claim has been found to be compensable in this instalment and the same loss has been compensated in another claim, the amount of compensation awarded in the other claim has been deducted from the compensation calculated for the claim in this instalment. Where a claim has been found to be compensable in this instalment and another claim for the same loss is pending before the Commission, the relevant information has been provided to the Panel reviewing the other claim so that the same loss is not compensated twice.

211. As a corollary principle and as noted previously, 85/ the Panel decides that, as between two claimants seeking compensation for the same loss, whether a claimant may maintain a claim should not be determined on the basis of which party had title to the goods or bore the risk of loss under the terms of the contract, but rather on the basis of which party suffered an actual loss, taking into account whether or not payment for the goods had been made to the seller.

212. Applying these principles to the claims before it, and assuming other relevant criteria are met, the Panel finds, for example, that a seller's claim for goods lost in transit is compensable in principle, where the buyer has not yet paid the seller for the goods. Also, where a supplier has established that the State trading organization that contracted to sell its goods has not received payment for the goods, it may itself bring a claim.

IX. INCIDENTAL ISSUES

A. Date of loss

213. The Panel must determine "the date the loss occurred" within the meaning of Governing Council decision 16, for the purpose of recommending compensation for interest and for the purpose of determining the appropriate exchange rate to be applied to losses stated in currencies other than in United States dollars.

214. With respect to the contract losses in this instalment that occurred between 2 August 1990 to 2 August 1991, given the large number of contract-related claims under review, many of which involve multiple shipments with different dates of payment, the Panel finds that it is impractical to determine with precision the date of each individual loss that underlies the claim. Accordingly, unless otherwise specified, the Panel selects a single date, 2 February 1991, as the date of loss for contract-related losses.

215. With respect to other types of losses, the Panel has been guided by the first report of the "E2" Panel. Claims based on a course of dealing or decline in business normally concern losses that were suffered over an extended period of time. Consistent with the "E2" Panel's findings in its first report, and also with the findings of other panels, the Panel selects the mid-point of the period during which the loss occurred as the date of loss. Where the claim is for a loss of profits, the Panel also selects the mid-point of those losses.

216. With respect to claims for the loss of tangible assets, the Panel selects 2 August 1990 as the date of the loss, because that date generally coincides with the date of loss of control by the claimant over the assets in question.

217. With respect to claims for evacuation costs, the Panel notes that, in general, these costs were incurred over the period of Iraq's invasion and occupation of Kuwait and, therefore, adopts the mid-point of the occupation period as the date of loss for costs of this nature.

B. Currency exchange rate

218. The Panel notes that many of the claimants have advanced claims in currencies other than United States dollars. The Panel has assessed all such claims, and performed all claim calculations in the original currencies of the claims. Since the Commission issues its awards in United States dollars, the Panel is required to determine the appropriate rate of exchange to be applied to claims where the losses are alleged in other currencies.

219. For losses claimed in this instalment, including non-contractual losses, the Panel notes that all prior Commission compensation awards have relied upon the United Nations Monthly Bulletin of Statistics for determining commercial exchange rates into United States dollars. The Panel adopts that approach for this report. Accordingly, the Panel finds that the appropriate exchange rate to be applied to the claims in the fourth instalment in currencies other than the United States dollar is the rate prevailing on the date of loss, as outlined in paragraphs 213 to 217 above.

220. The above rules apply to claims stated in currencies other than the Kuwaiti dinar. For claims denominated in Kuwaiti dinars, the Panel takes note of the extreme fluctuation in the value of the Kuwaiti dinar during the occupation period, and adopts the decision of the "F1" and "E4" Panels in applying the rate of exchange prevailing at 1 August 1990 as the most appropriate rate.

C. Interest

221. Governing Council decision 16 states that "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award". While postponing a decision on the methods of calculation and payment of interest, in decision 16, the Governing Council further specified that it would consider the method of calculation and of payment of interest at a later date and that "[i]nterest will be paid after the principal amount of awards". Accordingly, all claim figures in this report are net of any individual claims for interest advanced by the claimants.

222. The task of the Panel, therefore, is to determine the date from which interest is to run for the claims in this instalment. With respect to the date from which interest will accrue for all compensable claims, in accordance with decision 16 of the Governing Council, the Panel selects the date when the loss occurred, as defined in paragraphs 213 to 217 above.

223. In certain contracts in this instalment, the parties set forth a rate of interest applicable to unpaid amounts due under the contract. The Panel finds that such contract clauses must be considered in the light of the provisions of Governing Council decision 16, which state that the method of calculation and the payment of interest will be further considered by the Governing Council. Therefore, in accordance with decision 16 of the Governing Council, the Panel only selects the date when the loss occurred, as defined in paragraph 214 above. 86/

D. Claims preparation costs

224. In a letter dated 6 May 1998, the Executive Secretary of the Commission advised the Panel that the Governing Council intends to resolve

the issue of claims preparation costs at a future date. Accordingly, the Panel takes no action with respect to claims for such costs.

X. THE PANEL'S RECOMMENDATIONS

225. Based on the foregoing, the Panel recommends that the amounts set out in annex II below be paid in compensation for direct losses suffered by the claimants as a result of Iraq's unlawful invasion and occupation of Kuwait.

Geneva, 16 December 1999

(Signed)	Mr. Bruno Leurent Chairman
(Signed)	Mr. Kaj Hobér Commissioner
(Signed)	Mr. Andrei Khoudorojkov Commissioner

Notes

1/ During the Panel's review of the instalment, 12 claims were withdrawn at the request of claimants. Such claims are indicated in the table of recommendations contained in annex II hereto.

2/ E2(1) report, paras. 38-48.

3/ The trade embargo was established under Security Council resolution 661 (1990), adopted on 6 August 1990. The trade embargo against Kuwait was lifted on 3 April 1991. The trade embargo against Iraq is still in force.

4/ Other import-export claims, not in this instalment, involve barter arrangements in which payment for the goods was to be made by Iraq's delivery of oil. Since such arrangements are not involved in the claims under review, the Panel does not address the issue at this time.

5/ For the purposes of the present instalment, the term "resale" refers to the sale of goods to an alternative buyer as a consequence of the inability to perform obligations with respect to a previously concluded sale.

6/ Claimants submitted claims using the category "E" claim form. For a description of the "E" claim form, see paragraph 71.

7/ "United Nations Compensation Commission Claim Form for Corporations and Other Entities (Form E): Instructions for Claimants", ("Form E") para. 6.

8/ Form E, para. 6.

9/ Governing Council decision 7, para. 23. In addition, the Governing Council stated in paragraph 5 of decision 15 that a claimant seeking compensation for business losses must provide "detailed factual descriptions of the circumstances of the claimed loss, damage or injury" in order for compensation to be awarded. In decision 46, the Governing Council also decided that "... no loss shall be compensated by the Commission solely on the basis of an explanatory statement provided by the claimant ..."

10/ Rules, art. 35(1).

11/ A discussion of the specific evidentiary requirements for alleged contractual and non-contractual losses is to be found at paras. 169-176 and 194.

12/ See, for example, E2(1) report, paras. 72, 85. Noting that by July 1990, Iraq's foreign debt had reached significant proportions, the "E2" Panel found that the Security Council had intended to exclude Iraq's old debt from the jurisdiction of the Commission because its sheer size (lowest estimates amounted to USD 42 billion as of 1990) would quickly overwhelm the Compensation Fund and divert resources away from the victims most directly affected by Iraq's invasion and occupation of Kuwait. E2(1) report, paras. 72, 74.

13/ A policy to promote the private sector was pursued by the Baath Party, publicly endorsed by President Hussein, throughout the 1980s. In February 1987, when the Government of Iraq introduced an ambitious economic liberalization and privatization programme, many farms, factories and small businesses were transferred to the private sector. However, major industries such as oil, defence, steel, railway, petrochemicals, banking, insurance and public utilities continued under state control. Abbas Alnasrawi "Iraq: Economic Consequences of the 1991 Gulf War and Future Outlook", Third World Quarterly, Vol. 13, No. 2 (1992), pp. 335, 337-38.

14/ In defining "unusually long payment terms", the "E2" Panel examined the payment practices in Iraq prior to the beginning of the war between the Iran and Iraq. The Panel concluded that, prior to that time, Iraq normally paid its contractual debts on a "current basis", usually one to three months after the foreign party's performance of its obligation. E2(1) report, paras. 88-89.

15/ E2(1) report, para. 87.

16/ As stated in the E2(1) report, para. 90:

> "In the case of contracts with Iraq, where the performance giving rise to the original debt had been rendered by a claimant more than three months prior to 2 August 1990, that is, prior to 2 May 1990, claims based on payments owed, in kind or in cash, for such performance are outside of the jurisdiction of the Commission as claims for debts or obligations arising prior to 2 August 1990.

'Performance' as understood by the Panel for purposes of this rule can mean complete performance under a contract, or partial performance, so long as an amount was agreed to be paid for that portion of completed partial performance."

17/ E2(1) report, para. 82.

18/ The same conclusion has been reached by the "E2" Panel in its third report. See E2(3) report, paras. 106-108.

19/ For example, E2(1) report, para. 104 ("'performance' means the delivery of the goods in question pursuant to the terms of the contract", as evidenced by the documents called for under the contract, such as bills of lading). Applying the "arising prior to" clause, the Panel also concluded that

> "[W]here claimants had completed performance (i.e., delivered the goods, as evidenced by appropriate documentation) more than three months prior to 2 August 1990, claims for the recovery of amounts owed by Iraq for that performance shall be considered to have arisen prior to 2 August 1990 and, as such, are outside the jurisdiction of this Commission. In cases where deliveries of goods were made within three months prior to 2 August 1990, claims for compensation for amounts owed by Iraq for such performance meet the 'arising prior to test'". E2(1), para. 105.

Elsewhere in its first report, in applying the "arising prior to" clause, the "E2" Panel referred to "shipment" of the goods as the defining act. See for example, paragraph 201, which states that where terms of a supply contract were "C&F Aqaba port", "performance may only be considered to have been completed as of the date when the items were shipped in conformity with the contract", as evidenced by the bill of lading. See also, paras. 202 et seq.

20/ E.g., Raymond Jack, Documentary Credits, 2nd ed. (London, Butterworths, 1993), pp. 17-18; Roy Goode, Commercial Law, 2nd ed. (London, Penguin Books, 1995), pp. 987-988.

21/ Article 9 of the Uniform Customs and Practice for Documentary Credits (1983 revision), ICC Publication No. 400 (hereinafter the "UCP").

22/ In formulating this rule, the Panel has been guided by Article 47(a) of the UCP (1983 revision). This provision states that, where a credit does not stipulate a specified period after the date of shipment during which presentation of documents must be made, "banks will refuse documents presented to them later than 21 days after the date of issuance of the transport documents(s)."

23/ These rules may have to be adapted in dealing with situations in which delivery is not the sole essential obligation of the claimant. However, the Panel is not called upon to address such situations with respect to the claims in this instalment.

24/ The same conclusion has been reached by the "E2" Panel. See E2(1) report, paras. 99, 104, 201-202, 205.

25/ See paragraph 92, supra.

26/ In formulating this criterion, the Panel is mindful that, as a rule, a correspondent bank or a negotiating bank would have duly forwarded the documents to the issuing bank. Also, in most cases, it would have been difficult for a claimant to obtain proof of the receipt of documents by the Iraqi issuing bank.

27/ Decree No. 377 of the Revolutionary Command Council of Iraq enacting Act No. 57 (16 September 1990). The relevant portions of Iraqi Act 57, promulgated on 16 September 1990 but stated to come into effect on 6 August 1990, state:

> Article 5
>
> Neither the Iraqi government, its banks, institutions and companies, nor any Iraqi individual or body corporate shall be liable for any delay that occurs in payment of financial entitlements (principal, interest, etc.). No law or decision which deems the above Iraqi authorities to be in any way in default or in breach of their obligations shall be recognized.
>
> Article 7
>
> All assets and funds, as well as the income accruing therefrom, which belong to Governments, institutions, companies and banks of States which have taken arbitrary decisions against Iraq shall be frozen.

(Official United Nations translation of Iraqi Act No. 57)

28/ In early September 1990, the official Iraqi News Agency quoted Muhammad Mahdi Salih, Iraqi Trade and acting Finance Minister, as stating that Iraq had suspended payments on its foreign debt, as a result of the economic blockade imposed on Iraq. As described by the Iraqi News Agency, the Trade Minister stressed that Iraq's suspension of the programme to repay its foreign debts "has inflicted direct harm on the countries and companies which do not have the ability to cope with this situation for a long period of time". "Iraqi Minister on International Economic Consequences of Blockade, US Action," BBC Summary of World Broadcasts (source Iraqi News Agency), 5 September 1990. See also "Iraq Suspends Repaying Foreign Debt", Associated Press, 3 September 1990; "Gulf Crisis: Baghdad Targets Countries That Have Frozen Its Holdings Abroad. The Regime Will Also Withhold Payment on its Debts", Los Angeles Times, 20 September 1990.

29/ See, for example, E2(3) report, paras. 60-77.

30/ As the Category C Panel has observed, by the end of February 1991, in excess of two million people are estimated to have left Iraq and Kuwait, or were displaced or dislocated as a result of Iraq's invasion and occupation of Kuwait. C(1) report, pages 60-61.

31/ See, for example, L. Freedman & E. Kharsh, The Gulf Conflict (Faber & Faber, 1994), at pp. 203, 279-80.

32/ See, for example, *ibid*. at pp. 137-139, 156.

33/ The conditions in Iraq following the cease-fire are described in detail in the report to the United Nations Secretary-General of former Under-Secretary General Martti Ahtisaari, who visited Iraq from 10 to 17 March 1991 to assess the country's humanitarian needs. "Report to the Secretary-General on humanitarian needs in Kuwait and Iraq in the immediate post-crisis environment by a mission to the area led by Mr. Martti Ahtisaari, Under-Secretary-General for Administration and Management, dated 20 March 1991" (S/22366) (hereinafter "Ahtisaari report").

34/ *Ibid*., pp. 5-9, 11-12.

35/ Governing Council decision 9 defines the "trade embargo and related measures" as "the prohibitions in United Nations Security Council Resolution 661 (1990) and relevant subsequent resolutions and the measures taken by states pursuant thereto".

36/ Governing Council decision 9, para. 6. As explained in paragraph 9 of decision 15, this provision is intended to show that the full extent of a loss may be attributed to both Iraq's unlawful invasion and to the trade embargo and related measures, and that they are parallel causes. Decision 15, para. 9(III).

37/ See E2(1) report, paras. 164-169.

38/ Paragraph 17 of Security Council resolution 687 (1991) states that the Security Council "[d]ecides that all Iraqi statements since 2 August 1990 repudiating its foreign debt are null and void, and demands that Iraq adhere scrupulously to all of its obligations concerning servicing and repayment of its foreign debt".

39/ See paragraph 108 and note 33, *supra*.

40/ See paragraphs 106-108, *supra*.

41/ See, for example, "Report to the Secretary-General by a United Nations mission, led by Mr. Abdulrahim A. Farah, former Under-secretary General, assessing the scope and nature of damage inflicted on Kuwait's infrastructure during the Iraqi occupation of the country from 2 August 1990 to 27 February 1991" (S/22535) (29 April 1991) (the "Farah Report"); United Nations Economic and Social Council (ECOSOC), "Report on the Situation of Human Rights in Kuwait under Iraqi Occupation, by Walter Kälin, Special Rapporteur of the ECOSOC Commission on Human Rights, E/CN/.4/1992/26 (16 January 1992)(the "Kälin Report"); C(1) report, *passim*. See also, E2(1) report, paras. 146-147.

42/ For example, C(1) report, pages 82-83, 98-99, 116-117 (and authorities cited therein). See also the Kälin Report, paras. 79-89.

43/ C(1) report, page 60.

44/ Kälin Report, at paras. 27-28.

45/ Farah Report, at para. 62.

46/ Farah Report, at para. 43.

47/ Farah Report, at paras. 62, 518, 522.

48/ See, e.g., C(1) report, page 172; E4(1) report, paras. 162-176.

49/ E2(2) report, para. 89.

50/ E2(2) report, para. 89. A similar conclusion was reached in the "E2" Panel's first report, para. 145.

51/ E4(1) report, para. 214; E3(2) report, para. 115.

52/ For example, depending on the contract, the risk of loss may have passed to the buyer when the goods were handed over to the first carrier.

53/ See discussion in paragraphs 127-132, supra.

54/ During the period immediately preceding Iraq's invasion, a seasonal slowdown in business activity resulted in an accumulation of goods in port areas and at the airport. At this time, with the exception of perishable goods, the normal period for customs clearance, inspection and collection after delivery was approximately two to four weeks depending on the mode of delivery.

55/ Such evidence may include, for example, a statement by a buyer, storage company or bailee (such as that of Kuwait Airways), a port authority certificate, a cancelled letter of credit or rejected bank documents.

56/ See paragraph 202, infra.

57/ The Panel recognizes that there may be other circumstances described in paragraph 21 of decision 7 that may apply to contracts involving parties outside Iraq and Kuwait. However, the Panel need not consider them, since the facts supporting the claims under review relate only to "military operations or threat of military action by either side".

58/ E2(1) report, paras. 157-163; E2(2) report, paras. 62-68; E2(3) report, paras. 55-58.

59/ E2(3) report, paras. 61-65; 73-74; 77. See also, E2(2) report, para. 68. In certain situations, the "E2" Panel has awarded compensation to claimants for a "secondary" period after 2 March 1991, which was assessed on the ability of the business in question to recover from the effects of Iraq's invasion. See E2(2) report, paras. 81, 139-143.

60/ E2(3) report, para. 77. The "E2" Panel found that northern Saudi Arabia was within the range of Iraq's Scud missiles and was thus credibly threatened with military action by Iraq or was the subject of actual military operations during the period noted above. Locations on the Red Sea and in the southern part of Saudi Arabia, being outside the range of Iraq's Scud missiles, are not compensable areas as they were not the subject of military operations or threat of military action. In the Persian Gulf, the presence of mines laid by Iraq constitutes actual military operations with respect to waters above the 27th parallel from the

Saudi Arabian coast to the western Iranian coast, and thus such locations are within the compensable areas. Ibid., paras. 61-63; 73-74.

61/ See generally, Report of the International Law Commission on the work of its forty-eighth session, Draft Articles on State Responsibility, commentary to article 44, Yearbook of the International Law Commission, 1996, vol. II, Part Two.

62/ See further discussion at paragraph 203(d), infra.

63/ For this purpose, variable costs are defined as those expenses incurred in reliance upon, and specifically with reference to, the contract and which, if the contract were not to be performed, could be avoided. The claimant is not required to prove a record of general profitability in order to claim lost profits where a contract is interrupted.

64/ E2(3) report, para. 102.

65/ E2(2) report, paras. 74-78.

66/ E2(2) report, para. 78.

67/ E2(3) report, para. 102.

68/ E2(2) report, paras. 146-152.

69/ For example, E2(3) report, paras. 103, 129.

70/ E2(3) report, para. 105.

71/ Ibid.

72/ Ibid.

73/ E2(3) report, paras. 89-93.

74/ See discussion in paragraphs 151 to 153, supra and note 60.

75/ E2(3) report, para. 167.

76/ E2(1) report, para. 234. The Panel notes the distinction drawn by other panels, which have dismissed claims for rent paid in respect of business premises on the ground that such expenses were normal operating costs that would have been incurred regardless of Iraq's invasion and occupation of Kuwait, together with the analysis of the "E2" Panel with respect to such issues, with which this Panel agrees. See E2(3) report, para. 158 and notes 75 and 76 (and references cited therein).

77/ See E2(3) report, para. 158.

78/ See, for example, E1(3) report, paras. 71 et seq.; E3(1) report, paras. 177-178; E3(2) report, para. 23.

79/ Decision 9, para. 6.

80/ Decision 15 also refers to provisions in decision 9 that relate to the subject of mitigation, namely paragraph 10 (providing for the resumption of a contract to which Iraq was not a party after the lifting of the embargo against Kuwait) and paragraphs 17 and 19 (providing for the resumption of a business concern that could be rebuilt).

81/ E2(1) report, para. 124. The scope of the duty of mitigation, as expressed in the reports of other panels, accords with the general principle in commercial transactions that a party to a contract is under a duty to take such measures as are reasonable in the circumstances to mitigate losses arising from breach by the other party and that damages may be reduced in the amount by which the loss should have been mitigated. See, for example, article 77, United Nations Convention on Contracts for the International Sale of Goods.

82/ E1(3) report, paras. 150-154. See also E3(1) report, para. 96; E1(1) report, paras. 117-118.

83/ E1(3) report, paras. 439-441.

84/ Governing Council decision 13, paragraph 3, provides guidelines for the payment of compensation in cases where multiple recovery for the same loss may occur.

85/ See paragraph 139, supra.

86/ The Panel finds that, where a contract containing extended payment terms provides for the payment of interest from the date of shipment until the agreed maturity date, such interest is part of the negotiated price of the contract. It is, thus, distinguishable from default interest addressed in the present paragraph.

Annex I

LIST OF REASONS STATED IN ANNEX II FOR DENIAL IN WHOLE OR PART OF THE CLAIMED AMOUNT

No.	Reason for denial or reduction of award	Explanation
1	"Arising prior to" exclusion	All or part of the claim is based on a debt or obligation of Iraq that arose prior to 2 August 1990 and is, thus, outside the jurisdiction of the Commission pursuant to resolution 687 (1991).
2	Part or all of loss is not direct	The type of loss, in whole or part, is in principle not a direct loss within the meaning of resolution 687 (1991).
3	Non-compensable expectancy	No liability exists for losses related to transactions that were only expected to take place based on a previous course of dealing
4	Part or all of loss is outside compensable period	All or part of the loss occurred outside the period of time during which the Panel has determined that a loss may be directly related to Iraq's invasion and occupation of Kuwait.
5	Part or all of loss is outside compensable area	All or part of the loss occurred outside the geographical area within which the Panel has determined that a loss may be directly related to Iraq's invasion and occupation of Kuwait.
6	Trade embargo is the sole cause	The loss claimed was caused exclusively by the application of the trade embargo or related measures pursuant to resolution 661 (1990) or other relevant resolutions and is accordingly not compensable.
7	No proof of direct loss	The claimant has failed to submit sufficient evidence to demonstrate that the loss was a direct result of the invasion and occupation of Kuwait.
8	Part or all of the loss is unsubstantiated	Claimant has failed to file documentation substantiating its claim; or, where documents have been provided, these do not demonstrate the circumstances or amount of part or all of the claimed loss as required under article 35 of the Rules.
9	Failure to comply with formal filing requirements	The claimant has failed to meet the formal requirements for the filing of claims as specified under article 14 of the UNCC Provisional Rules for Claims Procedure.

No.	Reason for denial or reduction of award	Explanation
10	Calculated loss is less than loss alleged	Applying the Panel's valuation methodology, the value of the claim was assessed to be less than that asserted by the claimant.
11	Insufficient evidence of value	Claimant has produced insufficient evidence to prove all or part of the value of its losses, as required under article 35 of the Rules.
12	Reduction to avoid multiple recovery	Although the claim is found to be eligible, an award has already been made for the same loss in another claim before the Commission. Accordingly, the amount of compensation awarded in the other claim has been deducted from the compensation calculated for the present claim, in keeping with Governing Council decision 13, para. 3.
13	Deduction for failure to mitigate	The claimant has not taken such measures as are reasonable in the circumstances to reduce or minimize the loss as required under paragraph 23 of Governing Council decision 9 and paragraph 9(IV) of decision 15.
14	Claim preparation costs	The issue of claim preparation costs is to be resolved by the Governing Council at a future date.
15	No mandate from insurer	No mandate has been provided by the claimant to establish that the claimant is authorized to bring a claim on behalf of the insurer.
16	Interest	The issue of methods of calculation and of payment of interest will be considered by the Governing Council at the appropriate time pursuant to Governing Council decision 16. Moreover, where the Panel has recommended that no compensation be paid for the principal amounts claimed, a nil award is recommended for interest claimed on such principal amounts.
17	Principal sum not compensable	

Annex II

RECOMMENDED AWARDS FOR THE FOURTH INSTALMENT OF "E2" CLAIMS

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
1	Australia	4000012	Norsdall Pty Ltd trading as White Pearl's Trading	USD	96,112.00	96,112.00	Contract	Goods shipped but not paid for	USD	73,783.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
							Business loss or course of dealing	Loss of profit	USD	12,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Interest	Interest	USD	10,329.00	0.00	Principal sum not compensable.	
2	Australia	4000013	Wyuna Meat Pty Ltd as trustee for Northern Meat Trust	USD	27,750.48	27,750.48	Contract	Goods shipped but not paid for	USD	27,750.48	26,900.48	Part or all of loss is not direct (see paras. 136-138; 158-160).	26,900.48
3	Australia	4000016	Kraft Foods Limited	USD	17,025,408.00	17,025,408.00	Contract	Goods shipped but not paid for	USD	17,025,408.00	1,412.50	"Arising prior to" exclusion (see para. 96); trade embargo is the sole cause (see paras. 110; 116).	1,412.50
4	Australia	4000017	Swordsman Australia Pty Ltd	AUD	55,761.70	45,519.76	Contract	Goods lost or destroyed in transit	AUD	55,761.70	43,769.00	n/a	43,769.00

				Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
No.	Country	UNCC claim No.	Claimant	Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
5	Australia	4000057	Nabalco Pty Limited	USD	639,651.00	639,651.00	Contract	Increased costs	USD	45,770.00	32,069.00	Part or all of loss is outside compensable area (see paras. 151-153; 187-188).	365,115.64
							Contract	Increased costs	USD	593,881.00	333,046.64	Part or all of loss is not direct (see paras. 149-150; 187-188).	
6	Austria	3000166	Vallaster Textil GesmbH & Company KG	ATS	1,816,102.16	165,130.22	Contract	Goods shipped but not paid for	ATS	1,612,359.50	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	ATS	203,742.66	0.00	Principal sum not compensable.	
7	Austria	4000113	Ruplan GesmbH	DEM	23,016.00	14,734.96	Contract	Goods manufactured but not delivered	DEM	23,016.00	0.00	Part or all of loss is not direct (see paras. 149-150).	0.00
8	Austria	4000114	Wilfried Heinzel Aktiengesellschaft	USD	67,092.00	67,092.00	Contract	Goods manufactured but not delivered	USD	52,099.00	20,019.00	Deduction for failure to mitigate (see paras. 200-203).	20,019.00
							Contract	Mitigation costs	USD	4,521.00	0.00	Failure to comply with formal filing requirements (see para. 61).	
							Interest	Interest	USD	10,472.00	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
9	Austria	4000115	Österreichische Zigarettenfilter GesmbH	USD	622,109.00	622,109.00	Contract	Goods shipped but not paid for	USD	622,109.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
10	Austria	4000116	Miba Gleitlager AG	ATS	118,894,306.20	11,059,738.31	Contract	Goods shipped but not paid for	ATS	118,894,306.20	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss is outside compensable period (see para. 119).	0.00
				USD	249,199.47				USD	249,199.47	0.00	Part or all of loss is outside compensable period (see para. 119).	
11	Austria	4000118	Engel Vertriebsgesellshaft MBH	ATS	17,615,020.00	1,601,656.66	Contract	Goods shipped but not paid for	ATS	17,615,020.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
12	Bahrain	4000059	United Gulf Factories	BHD	246,942.56	656,762.13	Contract	Loss of profit	BHD	106,704.00	0.00	Part or all of loss is not direct (see paras. 149-150; 161-166); non-compensable expectancy (see para. 186); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Business loss or course of dealing	Increased costs	BHD	25,000.00	0.00	Part or all of loss is not direct (see paras. 187-188); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Business loss or course of dealing	Loss of profit	BHD	100,000.00	0.00	Part or all of loss is not direct (see paras. 180-186); non-compensable expectancy (see para. 186); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Other	Claim preparation costs	BHD	300.00	0.00	Principal sum not compensable.	
							Interest	Interest	BHD	14,938.56	0.00	Principal sum not compensable.	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
13	Bahrain	4000070	Gulf Industrial Investment Co (EC)	USD	73,744,550.44	73,744,550.44	Contract	Goods shipped but not paid for	USD	1,878,089.44	0.00	"Arising prior to" exclusion (see para. 96); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	1,979,774.56
							Contract	Loss of profit	USD	71,866,461.00	1,979,774.56	Calculated loss is less than loss alleged (see para. 166).	
14	Bahrain	4000072	Gulf Aluminium Rolling Mill Company BSC	USD	6,274,530.25	6,274,530.25	Contract	Goods shipped but not paid for	USD	5,329,601.44	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	944,928.81	0.00	Principal sum not compensable.	
15	Bahrain	4000074	Halwachi Trading Establishment owner of Abdul Aziz & Ahmed Halwachi Food Industries	USD	18,518.00	18,518.00	Contract	Goods manufactured but not delivered	USD	18,518.00	0.00	Part or all of loss is not direct (see paras. 149-150).	0.00
16	Bangladesh	4000212	Afco Abedin Limited	USD	59,259.55	59,259.55	Contract	Goods shipped but not paid for	USD	59,259.55	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
17	Belgium	4000186	Caterpillar Overseas SA	BEF	173,796.00	5,413.36	Contract	Goods manufactured but not delivered	BEF	6,170.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Goods manufactured but not delivered	BEF	63,426.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Goods manufactured but not delivered	BEF	25,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Goods manufactured but not delivered	BEF	79,200.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
18	Belgium	4000190	Claim withdrawn.										n/a
19	Belgium	4000191	MAE Import Export NV	USD	647,479.15	647,479.15	Contract	Goods shipped but not paid for	USD	521,815.15	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	125,664.00	0.00	Principal sum not compensable.	
20	Belgium	4000192	Casalee Belgium NV	USD	851,250.00	851,250.00	Contract	Loss of profit	USD	851,250.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
21	Brazil	4000018	Goodyear Do Brasil Produtos De Borracha LTDA	USD	150,047.44	150,047.44	Contract	Goods shipped but not paid for	USD	150,047.44	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
22	Brazil	4000021	Claim withdrawn.										n/a
23	Brazil	4000025	Iochpe-Maxion S/A	USD	913,146.57	989,357.64	Other tangible property	Equipment/ Inventory	USD	913,146.57	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 190; 194).	0.00
				KWD	22,025.00				KWD	22,025.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 190; 194).	
24	Canada	4000229	Karvonen Films Ltd	CAD	3,260.80	2,823.20	Other tangible property	Inventory	CAD	3,090.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	0.00
							Contract	Air freight costs	CAD	170.80	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
25	Canada	4000231	Capex Industries Corporation Limited	USD	787,439.08	787,439.08	Contract	Goods shipped but not paid for	USD	570,825.40	570,825.40	n/a	570,825.40
							Contract	Loss of profit	USD	216,613.68	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
26	Canada	4000232	A. F. Enterprises International Ltd	CAD	56,227.89	48,682.16	Contract	Goods shipped but not paid for	CAD	56,227.89	27,666.87	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	27,666.87
27	Canada	4000233	Cygnus Technology Ltd	USD	250,000.00	250,000.00	Contract	Goods manufactured but not delivered	USD	250,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
28	Canada	4000235	Ayerst Laboratories - International, Division of Wyeth-Ayerst Canada Inc	USD	409,665.00	409,665.00	Contract	Goods shipped but not paid for	USD	409,665.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
29	Canada	4000236	Namet International Ltd	USD	250,000.00	250,000.00	Contract	Commission	USD	250,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
30	China	4000990	Al-Ahlia International Textile Co Ltd	USD	736,513.56	736,513.56	Other tangible property	Inventory	USD	449,568.52	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	44,076.84
							Other tangible property	Vehicles & equipment	USD	15,091.00	6,581.47	Calculated loss is less than loss alleged (see paras. 73-77; 194).	
							Other tangible property	Cash	USD	4,630.50	4,225.37	Calculated loss is less than loss alleged (see paras. 73-77; 194).	
							Other	Other - loans	USD	210,147.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77).	
							Real property	Leased premises	USD	32,200.00	18,200.00	Part or all of loss is not direct (see paras. 100-101; 192).	
							Payment or relief to others	Support	USD	4,038.00	0.00	Part or all of loss is not direct (see para. 193).	
							Payment or relief to others	Repatriation costs	USD	16,440.00	15,070.00	Calculated loss is less than loss alleged (see paras. 193; 194).	
							Business loss or course of dealing	Loss of profit	USD	4,398.54	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
31	China	4000991	Jiangsu Metals & Minerals Import & Export (Group) Corp	USD	232,248.52	232,248.52	Contract	Goods manufactured but not delivered	USD	171,225.01	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Interest	Interest	USD	61,023.51	0.00	Principal sum not compensable.	
32	China	4000992	Jiangsu Knitwear & Home-textiles Import & Export (Group) Corporation	USD	1,616,689.00	1,616,689.00	Contract	Goods manufactured but not delivered	USD	1,057,625.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Interest	Interest	USD	337,118.00	0.00	Principal sum not compensable.	
							Business loss or course of dealing	Loss of profit	USD	189,844.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Contract	Increased costs	USD	32,102.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
33	China	4000993	Jiangsu Light Industrial Products Import & Export (Group) Corporation	USD	537,710.53	537,710.53	Contract	Goods manufactured but not delivered	USD	15,488.14	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Goods manufactured but not delivered	USD	39,162.02	0.00	Part or all of loss is not direct (see paras. 149-153).	
							Contract	Goods manufactured but not delivered	USD	123,819.15	0.00	Part or all of loss is outside compensable period (see paras. 151-153).	
							Contract	Goods manufactured but not delivered	USD	7,155.72	0.00	Part or all of loss is outside compensable period (see paras. 151-153).	
							Contract	Goods manufactured but not delivered	USD	13,045.39	0.00	Part or all of loss is outside compensable period (see paras. 151-153).	
							Contract	Goods manufactured but not delivered	USD	2,647.96	0.00	Deduction for failure to mitigate (see paras. 200-203).	
							Contract	Goods manufactured but not delivered	USD	19,230.93	0.00	Part or all of loss is outside compensable period (see paras. 151-153).	
							Contract	Goods manufactured but not delivered	USD	14,465.58	0.00	Part or all of loss is outside compensable period (see paras. 151-153).	
							Business loss or course of dealing	Loss of return on working capital	USD	241,054.91	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Interest	Interest	USD	61,640.82	0.00	Principal sum not compensable.	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
34	China	4000994	China National Machinery Import & Export Corporation	USD	157,683.07	157,683.07	Contract	Goods shipped but not paid for	USD	67,318.10	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Contract	Goods shipped but not paid for	USD	64,546.41	0.00	Part or all of loss is outside compensable period (see para. 119).	
							Contract	Goods shipped but not paid for	USD	25,818.56	0.00	Part or all of loss is outside compensable period (see para. 125).	
35	China	4000995	Hei Long-Jiang Native Produce & Animal By-products I/E Corp.	USD	953,200.00	953,200.00	Contract	Goods manufactured but not delivered	USD	312,400.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Increased costs	USD	37,400.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Goods manufactured but not delivered	USD	49,100.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Mitigation costs	USD	82,300.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Interest	Interest	USD	472,000.00	0.00	Principal sum not compensable.	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
36	Corporate claim directly submitted	4002394	Josef Welser OHG	ATS	24,512,450.00	2,228,809.78	Contract	Goods shipped but not paid for	ATS	18,504,411.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	ATS	6,008,039.00	0.00	Principal sum not compensable.	
37	Croatia	4000038	"Exportdrvo", d.d. za trgovinu i usluge	USD	594,695.03	594,695.03	Contract	Goods shipped but not paid for	USD	338,067.18	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
							Contract	Goods shipped but not paid for	USD	108,736.00	0.00	Part or all of loss is not direct (see paras. 136-138).	
							Business loss or course of dealing	Loss of profit	USD	147,891.85	0.00	Non-compensable expectancy (see para. 186); part or all of loss is outside compensable period (see paras. 180-186).	
38	Croatia	4000085	"Dalekovod" Partnership for Engineering Production & Construction	USD	4,478,426.54	4,478,426.54	Contract	Goods shipped but not paid for	USD	4,478,426.54	0.00	"Arising prior to" exclusion (see para. 96).	0.00
39	Cyprus	4000104	DCP Imports-Exports	USD	4,684.90	4,684.90	Contract	Goods shipped but not paid for	USD	4,684.90	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
40	Cyprus	4000105	Keno Shoes Ltd	USD	21,161.95	21,161.95	Contract	Goods lost or destroyed in transit	USD	11,340.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 147; 169-176).	0.00
							Contract	Goods lost or destroyed in transit	USD	2,261.95	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Business loss or course of dealing	Loss of profit	USD	7,560.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 180-186; 194).	
41	Cyprus	4000107	Anemone Trading Ltd	USD	13,342.20	13,342.20	Contract	Goods shipped but not paid for	USD	13,342.20	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
42	Cyprus	4000110	Stella Cosmetics Company Ltd	USD	153,157.00	153,157.00	Contract	Goods shipped but not paid for	USD	10,260.00	0.00	Part or all of loss is not direct (see para. 149).	0.00
							Contract	Goods manufactured but not delivered	USD	18,724.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 149-150; 169-176).	
							Contract	Increased costs	USD	4,173.00	0.00	Part or all of loss is not direct (see para. 187).	
							Business loss or course of dealing	Loss of profit	USD	120,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 180-186; 194).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
43	Cyprus	4000196	I & G Electrical Services Co Ltd	USD	1,152,952.00	1,152,952.00	Contract	Goods shipped but not paid for	USD	585,229.00	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss is outside compensable period (see para. 119).	0.00
							Contract	Goods manufactured but not delivered	USD	173,745.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit	USD	297,925.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176); amended claim not timely filed.	
							Interest	Interest	USD	96,053.00	0.00	Principal sum not compensable.	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
44	Czech Republic (the)	4000294	Kovo Joint Stock Company	USD	269,722.30	269,722.30	Contract	Goods lost or destroyed in transit	USD	207,185.60	207,185.60	n/a	207,185.60
							Interest	Interest	USD	62,536.70	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223); claimant has been partially compensated from other sources.	
45	Czech Republic (the)	4000295	Koospol, Company Limited	USD	1,040,005.21	1,040,005.21	Contract	Goods shipped but not paid for	USD	966,148.74	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	73,856.47	0.00	Principal sum not compensable.	
46	Czech Republic (the)	4000296	Metra Blankso	USD	187,146.48	187,146.48	Contract	Goods shipped but not paid for	USD	161,486.85	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	25,659.63	0.00	Principal sum not compensable.	
47	Czech Republic (the)	4000300	Strojimport Joint Stock Company	USD	4,218,110.06	4,218,110.06	Contract	Goods shipped but not paid for	USD	3,180,588.26	0.00	Part or all of loss is not direct (see paras. 96; 119).	0.00
							Interest	Interest	USD	1,037,521.80	0.00	Principal sum not compensable.	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
48	Czech Republic (the)	4000301	Merkuria Co Ltd	USD	796,731.10	796,731.10	Contract	Goods shipped but not paid for	USD	596,961.12	0.00	"Arising prior to" exclusion (contract with Iraq) (see para. 96); part or all of the loss is unsubstantiated (contract with Kuwait) (see paras. 73-77; 136-138; 169-176).	0.00
							Contract	Increased costs	USD	21,941.82	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Increased costs	USD	1,087.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Interest	Interest	USD	176,741.16	0.00	Principal sum not compensable.	
49	Czech Republic (the)	4000302	Pragoexport AS	USD	6,101,245.99	6,101,245.99	Contract	Goods shipped but not paid for	USD	5,311,977.69	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	789,268.30	0.00	Principal sum not compensable.	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
50	Denmark	4000041	Brandtex A/S for Visage A/S (formerly Horse Shoe A/S)	DKK	1,053,855.00	175,965.10	Business loss or course of dealing	Loss of profit	DKK	1,031,000.00	0.00	Part or all of loss is not direct (see paras. 180-186).	3,244.48
							Payment or relief to others	Detention	DKK	22,855.00	3,244.48	Calculated loss is less than loss alleged (see para. 194).	
51	Denmark	4000042	Casco Nobel Inks Ltd (formerly Sadolin Printing Inks Ltd)	DKK USD	299,130.00 13,864.30	63,810 87	Contract	Goods shipped but not paid for	DKK	85,000.00	0.00	No proof of direct loss (see paras. 136-138).	0.00
							Contract	Goods manufactured but not delivered	DKK	214,130.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
									USD	13,864.30	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
52	Denmark	4000043	William Cook Europe A/S	DKK	199,020.00	33,230.92	Contract	Goods shipped but not paid for	DKK	199,020.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
53	Denmark	4000044	Datacentralen Ltd	KWD	15,032.00	52,013.84	Other tangible property	Destruction or total loss	KWD	7,671.00	14,625.29	Calculated loss is less than loss alleged (see para. 194).	24,128.75
							Payment or relief to others	Reimbursement for loss of personal property	KWD	1,068.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Contract	Loss of profit	KWD	5,493.00	9,503.46	Calculated loss is less than loss alleged.	
							Other tangible property	Loss of cash	KWD	800.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
54	Denmark	4000069	Holm & Partner Trading ApS	DKK	1,372,342.12	229,143.78	Contract	Goods shipped but not paid for	DKK	1,261,864.32	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 136-138; 169-176).	0.00
							Contract	Goods manufactured but not delivered	DKK	89,695.72	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 149-150; 169-176).	
							Contract	Goods manufactured but not delivered	DKK	20,782.08	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 149-150; 169-176).	
55	Egypt	4002644	Kawmiah Distributing Company	IQD	103,701.46	333,445.21	Contract	Goods shipped but not paid for	IQD	103,701.46	0.00	"Arising prior to" exclusion (see para. 96); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
56	Egypt	4002645	Misr El Menofiya Spinning & Weaving Industries	USD	4,903,864.00	4,903,864.00	Contract	Goods shipped but not paid for	USD	1,984,792.00	n/a	Claim transferred.	n/a
							Contract	Loss of profit	USD	764,370.00	n/a		
							Contract	Goods manufactured but not delivered	USD	855,000.00	n/a		
							Contract	Increased costs	USD	102,030.00	n/a		
							Interest	Interest	USD	1,197,672.00	n/a		

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
57	Egypt	4002646	Misr Bookshop, SG El-Sahhar & Co	USD	141,857.73	141,857.73	Contract	Goods shipped but not paid for	USD	88,439.98	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	53,417.75	0.00	Principal sum not compensable.	
58	Egypt	4002647	Misr Company for Mfg. Textile Equipment	USD	109,521.00	109,521.00	Contract	Goods shipped but not paid for	USD	68,280.00	n/a	Claim transferred.	n/a
							Interest	Interest	USD	41,241.00	n/a		
59	Egypt	4002648	Claim withdrawn.										n/a
60	Egypt	4002649	Misr Fine Spinning & Weaving Co	USD	3,693,438.40	3,693,438.40	Contract	Goods shipped but not paid for	USD	2,302,642.40	n/a	Claim transferred.	n/a
							Interest	Interest	USD	1,390,796.00	n/a		
61	France	4001732	Charles Jourdan Industrie	FRF	138,906.93	26,498.84	Contract	Goods shipped but not paid for	FRF	138,906.93	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
62	France	4001733	Ainsi Sois Mode	FRF	1,419,787.23	270,848.38	Contract	Goods manufactured but not delivered	FRF	828,539.60	0.00	Part or all of loss is not direct (see paras. 151-153).	0.00
							Contract	Goods manufactured but not delivered	FRF	520,000.00	0.00	Part or all of loss is not direct (see paras. 151-153).	
							Contract	Costs incurred	FRF	5,000.00	0.00	Part or all of loss is not direct (see paras. 151-153).	
							Contract	Legal fees	FRF	3,600.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77).	
							Contract	Travel costs and legal fees	FRF	62,647.63	0.00	Part or all of loss is not direct (see paras. 151-153).	
63	France	4001734	Odo	FRF	71,733.70	13,684.41	Contract	Goods shipped but not paid for	FRF	71,733.70	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
64	France	4001736	Claim withdrawn.										n/a
65	France	4001739	Société Anonyme de Télécommunications	FRF	2,078,510.00	396,510.87	Contract	Goods shipped but not paid for	FRF	2,078,510.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00

				Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
No.	Country	UNCC claim No.	Claimant	Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
66	France	4001740	Medigas International	FRF	1,830,099.72	349,122.42	Contract	Goods shipped but not paid for	FRF	672,789.86	0.00	Failure to comply with formal filing requirements (see para. 61); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Loss of profit	FRF	700,000.00	0.00	Failure to comply with formal filing requirements (see para. 61); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Other tangible property	Branch's assets	FRF	50,000.00	0.00	Failure to comply with formal filing requirements (see para. 61); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Payment or relief to others	Salaries	FRF	23,000.00	0.00	Failure to comply with formal filing requirements (see para. 61); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Other	Bank guarantee	FRF	104,309.86	0.00	Failure to comply with formal filing requirements (see para. 61); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Payment or relief to others	Salaries	FRF	30,000.00	0.00	Failure to comply with formal filing requirements (see para. 61); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Other tangible property	Equipment	FRF	250,000.00	0.00	Failure to comply with formal filing requirements (see para. 61); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
67	Germany	4000343	Autohaus Gürke GmbH	DEM	315,518.50	201,996.48	Contract	Cancellation	DEM	315,518.50	0.00	Part or all of loss is not direct (see paras 149-150).	0.00
68	Germany	4000347	Trepel GmbH Hebe- und Fördertechnik	DEM	15,757.00	10,087.71	Contract	Goods shipped but not paid for	DEM	15,757.00	10,076.32	Calculated loss is less than loss alleged (see paras. 169-176).	10,076.32
69	Germany	4000350	Jaegertool Helmut Jaeger Gmbh	DEM	75,427.17	48,288.84	Contract	Goods lost or destroyed in transit	DEM	12,029.00	0.00	Part or all of loss is not direct (see para. 134).	26,322.27
							Contract	Goods lost or destroyed in transit	DEM	2,301.20	1,513.95	n/a	
							Contract	Goods lost or destroyed in transit	DEM	37,708.64	24,808.32	n/a	
							Contract	Goods lost or destroyed in transit	DEM	5,443.64	0.00	Part or all of loss is not direct (see para. 134).	
							Contract	Return freight costs	DEM	17,944.69	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	

				Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
No.	Country	UNCC claim No.	Claimant	Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
70	Germany	4000351	Gudrun Schweers Handelsvertretungen - Import/Export	DEM	156,008.81	99,877.60	Contract	Goods lost or destroyed in transit	DEM	24,474.97	16,101.95	n/a	32,398.83
							Contract	Freight cost	DEM	176.84	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Goods manufactured but not delivered	DEM	125,395.00	12,374.51	Deduction for failure to mitigate (see paras. 200-203).	
							Contract	Goods lost or destroyed in transit	DEM	5,962.00	3,922.37	n/a	
71	Germany	4000352	Gerhard Gaber Wholesale	DEM	322,158.10	206,247.18	Contract	Goods lost or destroyed in transit	DEM	1,094.60	720.13	n/a	720.13
							Contract	Goods lost or destroyed in transit	DEM	212,345.40	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 147; 169-176).	
							Contract	Financial costs - damages	DEM	105,718.10	0.00	Part or all of loss is not direct (see paras. 161-166); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Other	Claims cost	DEM	3,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77).	

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72	Germany	4000365	M+K Trading Handelgesellschaft mbH - Export	DEM	350,467.00	224,370.68	Contract	Loss of profit	DEM	98,355.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 149-150; 169-176).	0.00
							Contract	Loss of profit	DEM	252,112.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 149-150; 169-176).	
73	Greece	4000222	Leaf Tobacco A. Michailides SA	USD	1,075,000.00	1,075,000.00	Contract	Goods shipped but not paid for	USD	1,075,000.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
74	Greece	4000223	Emmanuel N. Kazis SA	USD	3,734,875.00	3,734,875.00	Contract	Goods shipped but not paid for	USD	3,247,719.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	487,156.00	0.00	Principal sum not compensable.	
75	Greece	4000819	Bristol-Myers Squibb A.E.B.E.	USD	5,717,256.00	6,143,219.68	Contract	Goods shipped but not paid for	USD	5,717,256.00	1,265,443.25	"Arising prior to" exclusion (see para. 96).	1,265,443.25
				GRD	65,883,802.00		Contract	Goods manufactured but not delivered	GRD	65,883,802.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
76	Greece	4000820	Austro-Hellenique SA de Tabac	USD	1,200,000.00	1,200,000.00	Contract	Goods shipped but not paid for	USD	1,200,000.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00

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77	Hungary	4000267	Búzakalász Mg Termelő Szövetkezet	HUF	4,208,778.00	67,641.32	Contract	Increased costs	HUF	3,107,250.00	0.00	No proof of direct loss (see paras. 187-188).	0.00
							Business loss or course of dealing	Increased costs	HUF	1,101,528.00	0.00	Part or all of the loss is not direct (see paras. 187-188).	
78	Hungary	4000268	Elektherm Industrial Co-operative	USD	690,563.00	690,563.00	Contract	Goods shipped but not paid for	USD	494,307.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	196,256.00	0.00	Principal sum not compensable.	
79	Hungary	4000271	Hungavis Foreign Trading Company Limited by shares	USD	185,824.12	185,824.12	Contract	Goods manufactured but not delivered	USD	131,884.81	33,463.31	Calculated loss is less than loss alleged (see paras. 169-176).	53,939.47
							Contract	Additional costs	USD	20,476.16	20,476.16	n/a	
							Contract	Loss of profit	USD	33,463.31	0.00	Reduction to avoid multiple recovery.	
80	Hungary	4000274	Mogürt Trading Company Limited by shares	KWD	408,751.00	1,414,363.32	Other tangible property	Inventory	KWD	408,751.00	353,590.83	Insufficient evidence of value (see paras. 73-77; 194).	353,590.83
81	Hungary	4000275	Rávisz Elektronikai Informatic Kft	KWD	8,767.00	30,335.64	Contract	Goods manufactured but not delivered	KWD	8,767.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00

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82	Hungary	4000277	Terimpex Trading Company Limited by shares	USD	270,045.00	270,045.00	Contract	Goods shipped but not paid for	USD	270,045.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
83	India	4000511	M/s. Vijay International	USD	104,088.00	104,088.00	Contract	Goods shipped but not paid for	USD	70,330.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
							Interest	Interest	USD	33,758.00	0.00	Principal sum not compensable.	
84	India	4000513	Fashion Diffusion	FRF	118,640.00	22,632.58	Contract	Goods lost or destroyed in transit	FRF	118,640.00	22,916.75	n/a	22,916.75
85	India	4000514	Twentieth Century Garments	FRF	127,350.00	24,294.16	Contract	Goods lost or destroyed in transit	FRF	127,350.00	24,599.18	n/a	24,599.18
86	India	4000516	A.T. Exports	USD	5,600.00	5,600.00	Contract	Goods shipped but not paid for	USD	5,600.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
87	India	4000518	M/s. Kozy Silks Private Limited	USD	9,812.00	9,812.00	Contract	Goods lost or destroyed in transit	USD	6,222.50	3,095.25	Calculated loss is less than loss alleged	3,095.25
							Interest	Interest	USD	3,589.50	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
88	India	4000520	Paragon Textile Mills Ltd	USD	5,446.72	5,446.72	Contract	Goods lost or destroyed in transit	USD	3,758.28	3,758.28	n/a	3,758.28
							Interest	Interest	USD	1,688.44	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	

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89	Indonesia	4001335	Kufner Textiles Indonesia P.T.	USD	2,137,290.00	2,137,290.00	Contract	Goods shipped but not paid for	USD	1,445,742.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	691,548.00	0.00	Principal sum not ompensable.	
90	Iran (Islamic Republic of)	4001337	Mohammad Taghi Abdollahian	USD	4,058,401.00	4,058,401.00	Contract	Goods manufactured but not delivered	USD	1,272,605.00	890,823.50	Deduction for failure to mitigate (see paras. 200-203).	1,251,923.50
							Contract	Increased costs	USD	513,191.00	361,100.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Other	Government incentive	USD	1,272,605.00	0.00	Part or all of loss is not direct (see paras. 161-166).	
							Interest	Interest	USD	1,000,000.00	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
91	Ireland	4001342	Kildare Chilling Co Ltd	IEP	2,286,989.00	3,916,077.05	Other	Government incentive	IEP	2,286,989.00	0.00	Part or all of loss is not direct (see paras. 161-160).	0.00

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92	Ireland	4001343	Bimeda Chemicals Export Limited	GBP	623,546.00	1,185,448.67	Contract	Goods shipped but not paid for	GBP	489,804.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	GBP	133,742.00	0.00	Principal sum not compensable.	
93	Ireland	4001346	De Regt Special Cable Ltd	IEP	883,195.26	1,512,320.65	Contract	Goods shipped but not paid for	IEP	236,884.26	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Other	Other	IEP	529,000.00	0.00	Part or all of loss is not direct (see paras. 158-160).	
							Interest	Interest	IEP	90,311.00	0.00	Principal sum not compensable.	
							Interest	Interest	IEP	27,000.00	0.00	Principal sum not compensable.	
94	Ireland	4001347	C.R. Bard Ireland Limited	USD	37,383.15	37,383.15	Contract	Goods shipped but not paid for	USD	37,383.15	0.00	"Arising prior to" exclusion (see para. 96).	0.00
95	Ireland	4001349	Par-fit (Exports) Limited	USD	53,500.00	53,500.00	Contract	Goods shipped but not paid for	USD	53,500.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
96	Israel	4000394	Steimatzky Ltd	USD	3,129,384.72	3,129,384.72	Contract	Increased freight costs	USD	14,815.72	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77).	0.00
							Business loss or course of dealing	Increased costs - reduction in working hours	USD	114,569.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Business loss or course of dealing	Loss of profit	USD	3,000,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 180-186; 194).	
97	Israel	4000409	Natan Zwy & Co Ltd	USD	97,096.00	97,096.00	Business loss or course of dealing	Loss of profit	USD	97,096.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 180-186; 194).	0.00
98	Israel	4000414	Rad Data Communications Ltd	USD	6,659,000.00	6,659,000.00	Business loss or course of dealing	Loss of profit	USD	6,659,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 180-186; 194).	0.00
99	Israel	4000437	Polgat Industries Limited	USD	4,512,000.00	4,512,000.00	Business loss or course of dealing	Loss of profit	USD	4,512,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 180-186; 194).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
100	Italy	4001043	Renco Corporation	ITL	2,739,861,841.00	2,393,556.04	Contract	Goods shipped but not paid for	ITL	258,044,819.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Goods manufactured but not delivered	ITL	340,967,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Goods manufactured but not delivered - goods ordered	ITL	334,767,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Management cost	ITL	616,559,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit	ITL	487,242,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Interest	ITL	403,623,022.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Payment or relief to others	Salaries of staff	ITL	298,659,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
101	Italy	4001046	Claim withdrawn.										n/a

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
102	Italy	4001052	Elsag Bailey SpA	ITL	914,326,000.00	788,688.00	Other tangible property	Inventory	ITL	914,326,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	0.00
103	Italy	4001053	Ceramica Dalia SpA	USD	14,659.32	14,659.32	Contract	Goods lost or destroyed in transit	USD	14,659.32	14,659.32	n/a	14,659.32
104	Italy	4001059	Gruppo Finanziario Tessile SpA	USD	31,350.40	31,350.40	Contract	Goods lost or destroyed in transit	USD	31,350.40	31,350.40	n/a	31,350.40
105	Italy	4001062	Ladins Frames Srl	USD	25,987.00	25,987.00	Contract	Goods shipped but not paid for	USD	25,987.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
106	Italy	4001073	Aran Edilizia Srl	ITL IQD	3,004,196,000.00 102,075.00	2,919,603.33	Contract	Loss of profit	ITL	2,720,170,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Bankruptcy	ITL	284,026,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 161-166).	
							Contract	Construction & engineering	IQD	102,075.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
107	Japan	4000946	Ikegami Tsushinki Co Ltd	JPY	6,152,192.00	42,649.51	Contract	Goods lost or destroyed in transit	JPY	6,152,192.00	46,607.52	n/a	46,607.52

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
108	Japan	4000950	Matsushita Electrical Works Ltd	USD	50,014.40	52,534.71	Contract	Goods manufactured but not delivered	USD	50,014.40	0.00	Deduction for failure to mitigate (see paras. 200-203).	2,754.20
				JPY	363,555.00		Contract	Goods manufactured but not delivered	JPY	363,555.00	2,754.20	n/a	
109	Japan	4000952	T. Chatani & Co Ltd	JPY	19,622,043.00	136,028.03	Contract	Goods manufactured but not delivered	JPY	18,300,400.00	73,865.15	Deduction for failure to mitigate (see paras. 200-203).	73,865.15
							Other tangible property	Branch assets	JPY	1,321,643.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
110	Japan	4000956	Solid Corporation	USD	350,300.00	350,300.00	Other tangible property	Inventory	USD	350,300.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	0.00
111	Japan	4000957	Brethren Corporation (K.K. Brethren Shoji)	JPY	151,510,181.00	1,050,330.54	Contract	Goods shipped but not paid for	JPY	141,124,000.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	JPY	10,386,181.00	0.00	Principal sum not compensable.	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
112	Japan	4000964	Nichimen Corporation	USD	1,641,352.98	1,641,352.98	Contract	Goods manufactured but not delivered/ goods lost or destroyed	USD	611,994.91	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	35,146.11
							Contract	Increased costs	USD	933,582.12	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Goods manufactured but not delivered	USD	51,080.16	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Other tangible property	Branch assets	USD	44,695.79	35,146.11	Calculated loss is less than loss alleged (see para. 194).	
113	Jordan	4002425	Al-Nasser Clearing & Transport Company	JOD	21,260,000.00	32,310,030.40	Contract	Lost of profits	JOD	5,670,000.00	n/a	Claim transferred.	n/a
							Other tangible property	Vehicles	JOD	8,290,000.00	n/a		
							Payment or relief to others	Wages	JOD	4,600,000.00	n/a		
							Interest	Interest	JOD	2,700,000.00	n/a		
114	Jordan	4002428	Claim withdrawn.										n/a

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
115	Lebanon	4001104	Merck Sharp Dohme-Lebanon S.A.L.	USD	1,658,163.84	1,658,163.84	Contract	Goods shipped but not paid for	USD	1,658,163.84	0.00	"Arising prior to" exclusion (see para. 96).	0.00
116	Lebanon	4001105	Arabian Trading and Forwarding Co	KWD	60,000.00	207,612.46	Other tangible property	Inventory	KWD	60,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	0.00
117	Liechtenstein	4001178	Seefin Establishment as owner of & on behalf of Donina Shipping Limited	USD	13,960.00	13,960.00	Other tangible property	Cash	USD	13,960.00	13,960.00	n/a	13,960.00
118	Liechtenstein	4001179	Fassons Limited	DEM	9,413,866.74	6,134,264.89	Contract	Goods shipped but not paid for	DEM	9,413,866.74	0.00	"Arising prior to" exclusion (see para. 96).	0.00
				GBP	56,524.80		Contract	Goods shipped but not paid for	GBP	56,524.80	0.00	"Arising prior to" exclusion (see para. 96).	
119	Malaysia	4001377	Felda Marketing Corporation	USD	11,524,057.84	11,524,057.84	Contract	Goods shipped but not paid for	USD	11,524,057.84	7,951,639.28	"Arising prior to" exclusion (see para. 96); trade embargo is the sole cause (see paras. 110; 116).	7,951,639.28

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
120	Maldives	4001134	Maldives Airports Authority	USD	6,387,342.68	6,387,342.68	Contract	Project construction equipment	USD	1,542,756.00	1,542,756.00	n/a	2,737,156.00
							Contract	Project materials	USD	1,000,000.00	1,000,000.00	n/a	
							Contract	Project labour costs	USD	44,400.00	44,400.00	n/a	
							Contract	Project overhead costs	USD	231,158.00	150,000.00	Calculated loss is less than loss alleged.	
							Contract	Legal costs of arbitration	USD	891,884.27	0.00	Part or all of loss is not direct (see paras. 161-165; 168).	
							Contract	Arbitration award against claimant	USD	1,783,489.41	0.00	Part or all of loss is not direct (see paras. 161-165; 168).	
							Contract	Delay costs	USD	893,655.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
121	Morocco	4001154	Hadj Mohamed Ammor	MAD	598,900.00	72,682.04	Contract	Goods shipped but not paid for	MAD	598,900.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 136-138; 169-176).	0.00
122	Morocco	4001181	Asnina Abdellatif	MAD	317,800.00	38,567.96	Contract	Goods shipped but not paid for	MAD	317,800.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 136-138; 169-176).	0.00

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123	Morocco	4001182	Golfazur and Maroccan House	USD	5,425,000.00	5,425,000.00	Real property	Leased premises damages	USD	175,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194)	0.00
							Other tangible property	Inventory	USD	5,250,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194)	
124	Netherlands (the)	4003076	Hans K. Madsen C. V. T/A Sea Gate Shipatores	NLG	87,851.94	49,887.53	Contract	Goods shipped but not paid for	NLG	87,851.94	3,982.41	"Arising prior to" exclusion (see para. 96); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176)	3,982.41
							Interest	Interest	NLG	Not calculated	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223)	
125	Netherlands (the)	4001183	M. Valstar & Co. B.V.	USD	49,309.75	49,309.75	Contract	Goods shipped but not paid for	USD	43,168.75	0.00	No proof of direct loss (see paras. 73-77; 136-138; 169-176)	6,141.00
							Contract	Goods lost or destroyed in transit	USD	6,141.00	6,141.00	n/a	
126	Netherlands (the)	4001184	Den Braven Sealants B. V.	USD	172,303.00	172,303.00	Contract	Goods shipped but not paid for	USD	172,303.00	0.00	Part or all of loss is not direct (see paras. 136-138)	0.00
127	Netherlands (the)	4001185	Intervet International B.V.	NLG	1,825,731.22	1,036,758.22	Contract	Goods shipped but not paid for	NLG	1,825,731.22	253,196.03	"Arising prior to" exclusion (see para. 96); calculated loss is less than loss alleged	253,196.03

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
128	Netherlands (the)	4001186	National Electrical Carbon B.V.	NLG	24,572.00	13,953.44	Contract	Goods manufactured but not delivered	NLG	24,425.00	14,266.94	n/a	14,357.80
							Contract	Increased costs	NLG	147.00	85.86	n/a	
129	Pakistan	4001359	Revoni & Co (Pvt) Ltd	PKR	3,532,612.00	162,493.65	Contract	Goods lost or destroyed in transit	PKR	3,153,600.00	27,815.34	Insufficient evidence of value (see para. 74).	27,815.34
							Contract	Transportation charges	PKR	126,724.00	0.00	Reduction to avoid multiple recovery.	
							Contract	Bank charges	PKR	252,288.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
130	Pakistan	4001360	M/s. Safdar Associates	PKR	133,458.00	6,138.82	Contract	Goods shipped but not paid for	PKR	113,100.00	5,106.09	n/a	5,106.09
							Other	Government incentive	PKR	20,358.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77).	
							Interest	Interest		Not stated	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	

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131	Pakistan	4001361	Sabcos (Private) Limited	USD	10,738,988.01	10,738,988.01	Contract	Goods shipped but not paid for	USD	2,684,223.35	0.00	"Arising prior to" exclusion (see para. 96); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176); insufficient evidence of value.	0.00
							Contract	Goods manufactured but not delivered	USD	149,595.35	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit (Claimant)	USD	5,104,236.81	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit (Suppliers)	USD	44,154.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Mitigation costs	USD	51,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Business loss or course of dealing	Loss of profit	USD	1,600,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Interest	Interest	USD	1,105,778.50	0.00	Principal sum not compensable.	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
132	Pakistan	4001362	Haji Ayoob & Company	USD	3,644,910.52	3,644,910.52	Contract	Goods manufactured but not delivered	USD	84,865.91	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Goods manufactured but not delivered	USD	295,806.73	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit (Suppliers)	USD	197,204.48	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit (Claimant)	USD	178,422.32	0.00	Part or all of loss is not direct (see paras. 161-165).	
									USD	394,408.96	0.00	Part or all of loss is not direct (see paras. 161-165).	
							Contract	Interest	USD	46,953.16	0.00	Principal sum not compensable.	
							Business loss or course of dealing	Loss of profit - loss of goodwill	USD	1,150,000.00	0.00	Part or all of loss is not direct (see paras. 161-165).	
							Supplementary claim						
							Contract	Goods manufactured but not delivered	USD	216,022.52	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit	USD	939,752.41	0.00	Part or all of loss is not direct (see paras. 161-165).	
							Contract	Interest	USD	141,474.03	0.00	Principal sum not compensable.	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
133	Pakistan	4001363	N. P. Waterproof Industries (Pvt) Ltd	USD	63,641.00	63,641.00	Contract	Goods shipped but not paid for	USD	63,641.00	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss is outside compensable period (see para. 119).	0.00
134	Pakistan	4001364	Comet Sports (Pvt) Limited	USD	64,375.50	64,375.50	Contract	Goods lost or destroyed in transit	USD	48,330.00	16,110.00	Calculated loss is less than loss alleged (see paras. 73-77; 169-176; 194).	16,110.00
							Other	Government incentive	USD	8,313.00	0.00	Part or all of loss is not direct (see paras. 161-165).	
							Interest	Interest	USD	7,732.50	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
135	Poland	4001263	Foreign Trade Company "Confexim" Ltd	USD	1,168,900.00	1,168,900.00	Contract	Goods manufactured but not delivered	USD	1,148,900.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Business loss or course of dealing	Promotion costs	USD	20,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
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136	Poland	4001264	Metalexport Company Ltd	USD	7,325,437.00	7,325,437.00	Contract	Goods shipped but not paid for	USD	29,036.00	0.00	Part or all of loss is not direct (see para. 115).	0.00
							Contract	Goods manufactured but not delivered	USD	85,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Goods manufactured but not delivered	USD	964,985.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Goods manufactured but not delivered	USD	5,897,586.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Other	Claim preparation costs	USD	348,830.00	0.00	Principal sum not compensable.	
137	Poland	4001322	Kolmex Ltd	USD	1,024,795.80	1,024,795.80	Contract	Goods manufactured but not delivered	USD	151,800.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Goods manufactured but not delivered	USD	824,196.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Other	Claim preparation costs	USD	48,799.80	0.00	Principal sum not compensable.	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
138	Poland	4001334	Foreign Trade Enterprise Tricot Ltd	USD	2,665,056.00	2,665,056.00	Contract	Goods manufactured but not delivered	USD	2,260,282.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176); failure to comply with formal filing requirements (see para. 61).	0.00
							Contract	Bank charges	USD	3,471.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Return freight costs	USD	1,303.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit	USD	400,000.00	0.00	Non-compensable expectancy (see para. 186).	
139	Portugal	4001223	Esmaltal-Fabrica de Produtos Esmaltados do Norte, SA	USD	27,986.00	27,986.00	Contract	Goods manufactured but not delivered	USD	15,919.00	3,485.00	Calculated loss is less than loss alleged (see para. 173).	5,623.00
							Contract	Goods manufactured but not delivered	USD	5,060.00	0.00	Calculated loss is less than loss alleged (see para. 173).	
							Contract	Goods manufactured but not delivered	USD	2,138.00	2,138.00	n/a	
							Interest	Interest	USD	4,869.00	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
140	Portugal	4001231	Expocor-Exportacão de Cortica SA	USD	22,308.34	22,308.34	Contract	Goods manufactured but not delivered	USD	18,998.00	9,499.00	Deduction for failure to mitigate (see paras. 200-203).	9,499.00
							Interest	Interest	USD	3,310.34	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
141	Portugal	4001233	Ambar-Americo Barbosa Complexo Industrial Grafico SA	DEM	3,510.31	2,247.32	Contract	Goods shipped but not paid for	DEM	2,369.20	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
							Interest	Interest	DEM	1,141.11	0.00	Principal sum not compensable.	
142	Portugal	4001235	C. Mata Exporte-Marmores E Granitos. LDA	USD	170,305.00	170,305.00	Contract	Goods manufactured but not delivered	USD	9,505.61	9,505.61	n/a	12,202.66
							Business loss or course of dealing	Increased costs	USD	5,394.10	2,697.05	Calculated loss is less than loss alleged.	
							Interest	Interest	USD	1,941.00	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
							Contract	Goods manufactured but not delivered	USD	96,368.29	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Interest	Interest	USD	57,096.00	0.00	Principal sum not compensable.	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
143	Portugal	4001236	Confecçoes Planeta, LDA	PTE	1,192,655.00	8,635.92	Contract	Goods manufactured but not delivered	PTE	314,822.00	2,219.23	Insufficient evidence of value (see para. 74).	2,219.23
							Interest	Interest	PTE	877,833.00	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
144	Republic of Korea (the)	4001109	Hanil Synthetic Fiber Co. Ltd	USD	439,669.19	439,669.19	Contract	Goods shipped but not paid for	USD	331,154.13	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	108,515.06	0.00	Principal sum not compensable.	
145	Republic of Korea (the)	4001110	Hyosung Corporation	USD	38,498,512.07	38,498,512.07	Contract	Goods shipped but not paid for	USD	29,048,444.30	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Contract	Goods shipped but not paid for	USD	1,037,954.69	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss is not direct (see para. 117-119).	
							Interest	Restructured debts	USD	8,332,878.67	0.00	"Arising prior to" exclusion (see para. 96).	
							Interest	Interest	USD	79,234.41	0.00	Principal sum not compensable.	
146	Republic of Korea (the)	4001111	Hung Chang Products Company Limited	USD	290,130.12	290,130.12	Contract	Goods shipped but not paid for	USD	230,262.00	230,262.00	n/a	230,262.00
							Interest	Interest	USD	59,868.12	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
147	Republic of Korea (the)	4001112	IDM Corporation	USD	5,047,527.58	5,047,527.58	Contract	Goods shipped but not paid for	USD	4,071,088.00	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss outside compensable period (see para. 119).	0.00
							Interest	Interest	USD	976,439.58	0.00	Principal sum not compensable.	
148	Republic of Korea (the)	4001113	Kabool Ltd	USD	679,390.28	679,390.28	Contract	Goods shipped but not paid for	USD	679,390.28	0.00	"Arising prior to" exclusion (see para. 96).	0.00
149	Republic of Korea (the)	4001114	Kolon International Corporation	USD	6,690,506.77	6,690,506.77	Contract	Goods shipped but not paid for	USD	5,313,576.80	34,500.00	"Arising prior to" exclusion (see para. 96); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	34,500.00
							Interest	Interest	USD	1,376,929.97	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
150	Romania	4001237	S.C. Technoimportexport SA	USD	2,560,906.00	2,560,906.00	Contract	Goods shipped but not paid for	USD	2,560,906.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
151	Romania	4001238	Tehnoforestexport SA	USD	4,103,181.30	4,103,181.30	Contract	Goods shipped but not paid for	USD	3,973,753.30	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Interest	Interest	USD	129,428.00	0.00	Principal sum not compensable.	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
152	Romania	4001239	S.L. Astra Trading S.A.	USD	14,992,412.58	14,992,412.58	Contract	Claim details not provided	USD	14,992,412.58	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
153	Romania	4001244	Romanoexport SA	USD	152,891,000.00	152,891,000.00	Contract	Goods shipped but not paid for	USD	152,891,000.00	0.00	"Arising prior to" exclusion (see para. 96); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176); part or all of loss is outside compensable period (see para. 119).	0.00
154	Romania	4001246	Romatex SA	USD	5,671,355.43	5,671,355.43	Contract	Claim details not provided	USD	5,671,355.43	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
155	Russian Federation (the)	4001356	VAO Techmashexport, successor to V/O Techmashexport	USD	52,111,239.61	52,111,239.61	Contract	Goods delivered but not paid for	USD	43,203,061.24	1,046,186.00	"Arising prior to" exclusion (see para. 96); trade embargo is the sole cause (see paras. 110; 116); part or all of loss is outside compensable period (see para. 119).	1,046,186.00
							Interest	Interest	USD	8,908,178.37	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
156	Saudi Arabia	4002438	Alamdar Vapotherm Co Ltd	SAR	144,270.00	38,523.36	Contract	Goods manufactured but not delivered	SAR	134,100.00	0.00	Part or all of loss is not direct (see paras. 151-153).	0.00
							Other	Claim preparation costs	SAR	10,170.00	0.00	Principal sum not compensable.	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
157	Saudi Arabia	4002439	Sabic Marketing Ltd	USD	22,599,623.19	22,599,623.19	Contract	Goods shipped but not paid for	USD	20,398,306.00	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss is not direct (see paras. 136-138).	0.00
							Interest	Interest	USD	2,201,317.19	0.00	Principal sum not compensable.	
158	Saudi Arabia	4002445	Arabian Company for Detergents Limited	SAR	4,406,792.00	1,176,713.48	Contract	Loss of profit	SAR	699,303.00	0.00	No proof of direct loss (see paras. 149-150).	0.00
							Business loss or course of dealing	Loss of profit	SAR	2,199,000.00	0.00	No proof of direct loss (see paras. 73-77; 180-186).	
							Business loss or course of dealing	Loss of anticipatory profit	SAR	1,497,039.00	0.00	No proof of direct loss (see paras. 180-186).	
							Other	Claim preparation costs	SAR	11,450.00	0.00	Principal sum not compensable.	
159	Saudi Arabia	4C02446	Nafa Medical Ltd	SAR	1,882,000.00	502,536.72	Business loss or coursed of dealings	Decrease in production	SAR	135,000.00	n/a	Claim transferred.	n/a
							Business loss or course of dealing	Loss of profit	SAR	1,675,000.00	n/a		
							Business loss or course of dealing	Increased costs of transportation	SAR	72,000.00	n/a		

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
160	Saudi Arabia	4002447	Nafa Agriculture Company Limited	SAR	1,683,495.00	449,531.38	Contract	Goods manufactured but not shipped	SAR	30,671.00	n/a	Claim transferred.	n/a
							Business loss or course of dealing	Loss of profit	SAR	997,517.00	n/a		
							Business loss or course of dealing	Decrease in production	SAR	97,307.00	n/a		
							Business loss of course of dealing	Increased costs of transportation	SAR	108,000.00	n/a		
							Income producing property	Claim details not provided	SAR	450,000.00	n/a		
161	Saudi Arabia	4002452	Al Rajhi Company for Industry & Trade	SAR	599,922.00	160,192.79	Contract	Goods shipped but not paid for	SAR	330,462.00	0.00	Failure to comply with formal filing requirements (see para. 61).	0.00
							Contract	Loss of profit	SAR	269,460.00	0.00	Failure to comply with formal filing requirements (see para. 61).	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
162	Singapore	4001418	Sim Jui Li t/a Getaway Sports Promotions	USD	70,187.00	70,187.00	Contract	Goods shipped but not paid for	USD	32,000.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
							Payment or relief to others	Claim details not provided	USD	8,187.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Business loss or course of dealing	Loss of profit	USD	30,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 158-160).	
163	Singapore	4001419	YPN Trading	USD	340,326.86	340,326.86	Contract	Claim details not provided	USD	245,530.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Business loss or course of dealing	Loss of profit	USD	90,909.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 180-186; 194).	
							Contract	Goods shipped but not paid for	USD	3,887.86	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
164	Singapore	4001420	Tata Engineering Services Pte Ltd	SGD	37,541.10	21,269.75	Contract	Goods manufactured but not delivered	SGD	33,992.31	1,009.88	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176)	1,295.05
							Other	Return freight costs	SGD	3,548.79	285.17	Calculated loss is less than loss alleged.	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
165	Singapore	4001421	Tafat Industries Pte Ltd	SGD	5,122.00	2,901.98	Contract	Goods lost or destroyed in transit	SGD	5,122.00	2,965.84	n/a	2,965.84
166	Singapore	4001422	Cacto(s) Industries Pte Ltd	USD	30,590.40	30,590.40	Contract	Goods lost or destroyed in transit	USD	30,590.40	30,590.40	n/a	30,590.40
167	Singapore	4001423	Woleco Hotel Supplies Pte Ltd	USD	35,040.00	35,040.00	Contract	Goods shipped but not paid for	USD	35,040.00	23,370.00	Part or all of loss is not direct (see paras. 136-138).	23,370.00
168	Spain	4001460	Comercial Ordal SA	USD	15,735.30	15,735.30	Contract	Goods shipped but not paid for	USD	15,735.30	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
169	Spain	4001461	Moiña Internacional SL	ESP	66,116,077.00	679,158.47	Contract	Goods manufactured but not delivered	ESP	16,710,160.00	0.00	Part or all of loss is not direct (see paras. 149-153; 169-176).	54,815.16
							Contract	Goods shipped but not paid for	ESP	6,240,000.00	54,815.16	n/a	
							Contract	Leasing cost	ESP	9,800,000.00	0.00	Part or all of loss is not direct (see paras. 161-166).	
							Contract	Leasing cost	ESP	12,350,000.00	0.00	Part or all of loss is not direct (see paras. 161-166).	
							Interest	Interest	ESP	19,500,000.00	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
							Other	Exchange rate difference	ESP	1,515,917.00	0.00	Part or all of loss is not direct (see paras. 161-166)	

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				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
170	Spain	4001462	Fils SA	USD	3,591,390.00	3,591,390.00	Contract	Goods shipped but not paid for	USD	3,591,390.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
171	Spain	4001463	Dimas SA	USD	1,144,910.00	1,144,910.00	Contract	Goods shipped but not paid for	USD	1,144,910.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
172	Spain	4001589	Comercial Trovador SA	USD	28,778.00	28,778.00	Contract	Goods shipped but not paid for	USD	28,778.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
173	Spain	4001593	Estel-Imex SA	USD	2,183,682.28	2,342,522.23	Contract	Goods shipped but not paid for	USD	2,183,682.28	0.00	"Arising prior to" exclusion (see para. 96).	0.00
				DEM	248,108.00		Contract	Goods shipped but not paid for	DEM	248,108.00	0.00	"Arising prior to" exclusion (see para. 96).	
174	Sweden	4001470	Affärshuset Scandinavia Export & Import	KWD	35,500.00	122,837.37	Contract	Not specified	KWD	9,500.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Other tangible property	Not specified	KWD	11,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194)	
							Other	Not specified	KWD	15,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194)	
175	Sweden	4001477	Tecator AB	SEK	355,612.50	61,770.45	Contract	Goods shipped but not paid for	SEK	355,612.50	0.00	"Arising prior to" exclusion (see para. 96).	0.00

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176	Sweden	4001483	Borg International AB	USD	4,738,401.33	8,994,886.37	Contract	Goods shipped but not paid for	USD	4,738,401.33	1,007,930.00	"Arising prior to" exclusion (see para 96).	1,332,954.91
				SEK	24,504,584.36				SEK	24,504,584.35	325,024.91	Part or all of loss is not direct (see para 119).	
177	Switzerland	4001505	Nestle Products Export Corporation	USD	4,175.00	4,175.00	Payment or relief to others	Reimbursement for loss of personal belongings	USD	4,175.00	4,175.00	n/a	4,175.00
178	Switzerland	4001506	Hewlett Packard SA International Sales Branch	USD	124,973.50	124,973.50	Contract	Goods shipped but not paid for	USD	124,973.50	123,751.00	Calculated loss is less than loss alleged (see paras. 73-77; 169-176).	123,751.00
179	Switzerland	4001507	Rieber ag	DEM	333,409.75	213,450.54	Contract	Goods lost or destroyed in transit	DEM	333,409.75	219,348.51	n/a	219,348.51
180	Switzerland	4001508	Nestle World Trade Corporation	CHF	3,082,760.00	2,386,037.15	Contract	Goods manufactured but not delivered	CHF	2,418,583.21	1,460,071.38	Calculated loss is less than loss alleged (see paras. 73-77; 169-176).	1,655,073.28
							Contract	Goods manufactured but not delivered	CHF	364,447.75	159,046.32	Calculated loss is less than loss alleged (see paras. 73-77; 169-176).	
							Interest	Interest	CHF	252,375.54	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
							Payment or relief to others	Reimbursement for loss of personal property	CHF	47,353.50	35,955.58	n/a	

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181	Switzerland	4001581	Emil Flachsmann AG	CHF	436,401.85	957,617.38	Contract	Goods shipped but not paid for	CHF	436,401.85	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss is not direct (see paras. 117-119).	0.00
				USD	619,845.05				USD	619,845.05	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss is not direct (see paras. 117-119).	
182	Switzerland	4001584	Inpro-Engineering Ltd	CHF	115,069.46	92,563.05	Contract	Goods shipped but not paid for	CHF	115,069.46	0.00	"Arising prior to" exclusion (see para. 96).	0.00
				USD	3,500.00		Contract	Goods shipped but not paid for	USD	3,500.00	0.00	"Arising prior to" exclusion (see para. 96).	
183	The former Yugoslav Republic of Macedonia	4001670	Joint-Stock Company in Mixed Property - Textile Works Plant "Novost"	USD	286,840.85	286,840.85	Contract	Goods shipped but not paid for	USD	226,984.65	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	59,856.20	0.00	Principal sum not compensable.	
184	The former Yugoslav Republic of Macedonia	4001671	Pos T.I. "Biljana" - Prilep	USD	1,576,559.20	1,576,559.20	Contract	Goods shipped but not paid for	USD	1,285,154.87	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	291,404.33	0.00	Principal sum not compensable.	
185	The former Yugoslav Republic of Macedonia	4001672	AD "Prespateks" - Resen	USD	4,868,756.10	4,868,756.10	Contract	Goods shipped but not paid for	USD	2,660,747.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	2,208,009.10	0.00	Principal sum not compensable.	

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186	The former Yugoslav Republic of Macedonia	4001674	Textile Factory "Goteks" DOO	USD	2,702,179.06	2,702,179.06	Contract	Goods shipped but not paid for	USD	1,990,633.65	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	711,545.41	0.00	Principal sum not compensable.	
187	The former Yugoslav Republic of Macedonia	4001681	Wool Combine "Todor Cipovski Merdžan" "Teteks" - Joint Stock Company	USD	4,061,020.87	4,061,020.87	Contract	Goods shipped but not paid for	USD	3,304,476.19	0.00	"Arising prior to" exclusion (see para. 96); part or all of loss is not direct (see paras. 117-119).	0.00
							Interest	Interest	USD	756,544.68	0.00	Principal sum not compensable.	
188	The former Yugoslav Republic of Macedonia	4001682	"Ruen" - Kočani Industrija	USD	191,466.41	191,466.41	Contract	Goods shipped but not paid for	USD	45,319.49	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00
							Contract	Goods shipped but not paid for	USD	113,280.92	0.00	Part or all of loss is not direct (see paras. 136-138).	
							Contract	Goods manufactured but not delivered	USD	32,866.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
189	Tunisia	4002585	Claim withdrawn.										n/a
190	Tunisia	4002586	Claim withdrawn.										n/a
191	Tunisia	4002587	Claim withdrawn.										n/a

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192	Tunisia	4002588	Claim withdrawn.										n/a
193	Tunisia	4002589	Claim withdrawn.										n/a
194	Tunisia	4002596	Tunisian Leaf Springs Company (COTREL SA)	USD	686,956.00	686,956.00	Contract	Goods shipped but not paid for	USD	558,596.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
							Interest	Interest	USD	128,000.00	0.00	Principal sum not compensable.	
195	Turkey	4001598	Kilic Tarim Ve Sanayi Ürünleri İhracat-İthalat A.Ş.	USD	483,750.00	483,750.00	Contract	Goods shipped but not paid for	USD	483,750.00	0.00	"Arising prior to" exclusion (see para. 96).	0.00
196	Turkey	4001600	Ak-Şahin Import Export & Trade Limited Co	USD	17,311.50	17,311.50	Contract	Goods shipped but not paid for	USD	10,283.10	0.00	Part or all of loss is not direct (see paras. 136-138).	7,028.40
							Contract	Goods lost or destroyed in transit	USD	7,028.40	7,028.40	n/a	
197	Turkey	4001602	Sönmez Tekstil Ticaret Ve Sanayi A.Ş.	USD	36,084.00	36,084.00	Contract	Goods manufactured but not delivered	USD	36,084.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00

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198	Turkey	4001603	Batalli Tarim Ürünleri Sanayi Ve Ticaret A.S. or Battali Inc., Agricultural Products & Industry	USD	4,500,033.41	4,516,052.34	Contract	Goods shipped but not paid for	USD	2,544,083.19	2,112,720.69	Trade embargo is the sole cause (see paras. 110; 116).	2,119,074.11
				CHF	9,113.00		Contract	Goods manufactured but not delivered	USD	435,849.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
				TRL	24,137,378.00		Contract	Goods manufactured but not delivered	USD	491,250.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176); trade embargo is the sole cause (see paras. 110; 116).	
							Contract	Government incentive	USD	100,281.00	0.00	Part or all of loss is not direct (see paras. 158-165).	
							Contract	Increased costs	USD	15,653.22	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
									CHF	9,113.00	2,167.81	Insufficient evidence of value (see paras. 73-77; 169-176).	
									TRL	24,137,378.00	4,185.61	Part of the transaction was in violation of the trade embargo.	
							Interest	Interest	USD	912,917.00	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
199	Turkey	4001604	Kotür Tütün Ticaret A.Ş.	USD	12,300.00	12,300.00	Other	Increased costs	USD	12,300.00	0.00	Part or all of loss is outside compensable area (see paras. 151-153; 187-188).	0.00
							Interest	Interest		Not calculated	0.00	Principal sum not compensable.	
200	Turkey	4001607	Cam Pazarlama A.Ş.	USD	61,506.50	61,506.50	Contract	Goods shipped but not paid for	USD	61,506.50	61,506.50	n/a	61,506.50
201	Uganda	4001662	Jumbo Enterprises	UGS	1,192,597,173.00	2,650,215.94	Contract	Goods shipped but not paid for	UGS	96,473,600.00	0.00	Part or all of loss is not direct (see paras. 151-153).	0.00
							Contract	Loss of profit	UGS	950,707,200.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Interest	Interest	UGS	145,416,373.00	0.00	Principal sum not compensable.	
202	United Arab Emirates (the)	4001663	Intrada Computers Forms Manufacturing Factory	AED	654,555.37	178,304.38	Contract	Goods manufactured but not delivered	AED	444,888.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Interest	Interest	AED	209,667.37	0.00	Principal sum not compensable.	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
203	United Arab Emirates (the)	4001664	Saigol & Gulf Ltd Co (LLC)	AED	2,408,951.90	656,211.36	Contract	Goods shipped but not paid for	AED	84,767.75	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Business loss or course of dealing	Loss of profit	AED	2,295,000.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 179-186; 194).	
							Interest	Interest	AED	29,184.15	0.00	Principal sum not compensable.	
204	United Arab Emirates (the)	4001666	Auto Trading Company	USD	242,021.32	242,021.32	Contract	Goods shipped but not paid for	USD	198,195.20	57,759.20	"Arising prior to" exclusion (see para. 96).	57,759.20
							Interest	Interest	USD	43,826.12	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
205	United Arab Emirates (the)	4001667	Dolphin High Pressure Hose & A/C Equipment Company	USD	264,074.42	264,074.42	Contract	Goods lost or destroyed in transit	USD	83,321.25	83,321.25	n/a	93,321.25
							Contract	Goods lost or destroyed in transit	USD	8,332.16	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 147; 169-176).	
							Payment or relief to others	Support	USD	21,798.36	10,000.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Contract	Goods shipped but not paid for	USD	50,333.65	0.00	Part or all of loss is not direct (see paras. 136-138).	
							Decline of business	Loss of profit	USD	82,875.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 179-186; 194).	
							Interest	Interest	USD	17,414.00	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
206	United Arab Emirates (the)	4001730	Roopkala Textorium	AED	444,719.74	121,144.03	Contract	Goods shipped but not paid for	AED	444,719.74	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 136-138; 169-176).	0.00
207	United Arab Emirates (the)	4001731	Regal Traders	AED	1,070,722.50	291,670.53	Contract	Goods shipped but not paid for	AED	1,070,722.50	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
208	United Kingdom (the)	4001817	Yule Catto Consumer Chemicals Limited	GBP	21,096.62	40,107.64	Contract	Goods manufactured but not delivered	GBP	840.00	1,612.28	n/a	16,500.22
							Contract	Goods manufactured but not delivered	GBP	3,680.59	7,064.47	n/a	
							Contract	Goods manufactured but not delivered	GBP	2,742.79	5,264.47	n/a	
							Contract	Goods manufactured but not delivered	GBP	1,333.24	2,559.00	n/a	
							Contract	Royalty	GBP	12,500.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176)	
209	United Kingdom (the)	4001818	Rascliffe Mills Ltd T/A Kaye & Stewart, William Thomson, Taylor & Lodge	GBP	109,515.00	208,203.42	Contract	Goods manufactured but not delivered	GBP	108,687.00	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Other	Claim preparation expenses	GBP	828.00	0.00	Principal sum not compensable.	
210	United Kingdom (the)	4001822	Claim withdrawn.										n/a

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
211	United Kingdom (the)	4001823	The Associated Octel Company Limited	GBP	142,912.62	271,697.00	Other tangible property	Equipment	GBP	121,627.80	116,129.80	Calculated loss is less than loss alleged (see paras. 73-77; 194).	116,129.80
							Other tangible property	Value added tax	GBP	21,284.82	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
212	United Kingdom (the)	4001824	Sara Lee Household & Personal Care UK Ltd	GBP	11,647.00	22,142.59	Contract	Goods manufactured but not delivered	GBP	11,647.00	0.00	Deduction for failure to mitigate (see paras. 200-203).	0.00
213	United Kingdom (the)	4001825	Sonatest PLC	GBP	16,064.86	30,541.56	Contract	Goods shipped but not paid for	GBP	12,010.00	23,051.82	n/a	23,051.82
							Interest	Interest	GBP	4,054.86	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
214	United Kingdom (the)	4002036	Redcliffe International Shipping Ltd	GBP	3,967.41	7,542.60	Contract	Transportation	GBP	3,967.41	7,064.13	Calculated loss is less than loss alleged (see paras. 73-77).	7,064.13
215	United States of America (the)	4000589	Agricultural Building Company	USD	158,474.85	158,474.85	Contract	Goods shipped but not paid for	USD	158,474.85	0.00	"Arising prior to" exclusion (see para. 96); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
216	United States of America (the)	4000592	Ari Industries, Inc	USD	6,597.00	6,597.00	Contract	Goods shipped but not paid for	USD	6,597.00	0.00	Part or all of loss is not direct (see paras. 136-138).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
217	United States of America (the)	4000599	Elma Engineering (Incorporated)	USD	162,888.95	162,888.95	Contract	Goods manufactured but not delivered	USD	132,430.00	124,308.00	Calculated loss is less than loss alleged (see paras. 73-77).	124,308.00
								Interest	USD	30,458.95	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
218	United States of America (the)	4000612	Merck & Co Inc	USD	2,168,521.87	2,168,521.87	Contract	Goods shipped but not paid for	USD	2,168,521.87	0.00	"Arising prior to" exclusion (see para. 96).	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
219	United States of America (the)	4000617	Philip Morris Products Inc	USD	7,731,033.94	7,731,033.94	Contract	Goods shipped but not paid for - Kuwait	USD	3,376,747.75	716,085.28	Deduction for failure to mitigate (see paras. 200-203); calculated loss is less than loss alleged (see paras. 73-77; 167; 169-176).	1,274,565.88
							Contract	Goods manufactured but not delivered - Kuwait	USD	3,646,408.20	558,480.60	Deduction for failure to mitigate (see paras. 200-203); calculated loss is less than loss alleged (see paras. 73-77; 167; 169-176).	
							Contract	Goods manufactured but not delivered - Jordan	USD	258,408.60	0.00	Part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Interest	Interest	USD	417,629.39	Awaiting decision	To be determined as per Governing Council decision 16 (see paras. 221-223).	
							Other	Claim preparation costs	USD	31,840.00	Awaiting decision	To be determined as per the Governing Council (see paras. 221-223).	
220	United States of America (the)	4000618	Ruska Instrument Corporation	USD	146,825.00	146,825.00	Contract	Goods manufactured but not delivered	USD	146,825.00	0.00	Part or all of loss is not direct (see paras. 136-137; 149-150)	0.00

No.	Country	UNCC claim No.	Claimant	Total amount claimed a/			Reclassified amount d/				Decision of the Panel of Commissioners e/		
				Amount claimed in original currency b/		Total amount claimed restated in USD c/	Type of loss	Sub-category	Amount claimed in original currency		Amount recommended in USD	Reasons for denial or reduction of award	Total award in USD
221	Uruguay	4001777	Frigorifico Durazno Sociedad Anónima	USD	50,110,325.00	50,110,325.00	Contract	Loss of profit	USD	2,628,240.00	0.00	Part or all of loss is not direct (see paras. 123; 125); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	0.00
							Contract	Loss of profit	USD	6,132,560.00	0.00	Part or all of loss is not direct (see paras. 123; 125); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Contract	Loss of profit	USD	1,331,137.00	0.00	Part or all of loss is not direct (see paras. 123; 125); part or all of the loss is unsubstantiated (see paras. 73-77; 169-176).	
							Interest	Interest	USD	1,009,194.00	0.00	Principal sum not compensable.	
							Business loss or course of dealing	Loss of profit	USD	15,000,000.00	0.00	Part or all of loss is not direct (see paras. 180-186); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Business loss or course of dealing	Moral damages	USD	15,000,000.00	0.00	Part or all of loss is not direct (see paras. 161-165); part or all of the loss is unsubstantiated (see paras. 161-165).	
							Business loss or course of dealing	Increased costs	USD	8,000,000.00	0.00	Part or all of loss is not direct (see paras. 161-165); part or all of the loss is unsubstantiated (see paras. 73-77; 194).	
							Interest	Interest	USD	1,009,194.00	0.00	Principal sum not compensable.	

Notes to table of recommended awards

a/ In accordance with the Governing Council's decision taken at its twenty-seventh session held in March 1998, the Panel has not considered unsolicited supplements or amendments submitted after 11 May 1998 to previously filed claims. Accordingly, the total claimed amounts stated in this table include only those supplements and amendments to the original claimed amounts submitted prior to 11 May 1998 or submitted after that date where these comply with the requirements of the Commission.

b/ Currency codes: AED (UAE dirham), ATS (Austrian schilling), AUD (Australian dollar), BEF (Belgian franc), BHD (Bahraini dinar), CAD (Canadian dollar), CHF (Swiss franc), DEM (Deutsche mark), DKK (Danish krone), ESP (Spanish peseta), FRF (French franc), GBP (Pound sterling), GRD (Grecce drachma), HUF (Hungarian forint), IEP (Irish pound), IQD (Iraqi dinar), INR (Indian rupee), ITL (Italian lira), JPY (Japanese yen), JOD (Jordanian dinar), KWD (Kuwaiti dinar), MAD (Morocco dirham), NLG (Netherlands guilder), PKR (Pakistani rupee), PTE (Portugal escudo), SAR (Saudi Arabian riyal), SEK (Swedish krona), SGD (Singapore dollar), TND (Tunisian dinar), TRL (Turkish lira), USD (United States dollar).

c/ For claims originally expressed by the claimant in currencies other than United States dollars, the secretariat has converted the amount claimed to United States dollars based on August 1990 rates of exchange as indicated in the United Nations Monthly Bulletin of Statistics, or in cases where this exchange rate is not available, the latest exchange rate available prior to August 1990. This conversion is made solely to provide an indication of the amount claimed in United States dollars for comparative purposes. In contrast, the date of the exchange rate that was applied to calculate the recommended amount is described in paragraphs 218-220.

d/ Since many claimants have presented similar losses in different ways, the Panel has recategorized certain of the losses using standard classifications, as appropriate. This procedure is intended to ensure consistency, equality of treatment and fairness in the analysis of the claims and is consistent with the practice of other panels of the Commission.

e/ As used in this table, "n/a" means not applicable.

Annex V

Decision concerning the fourth instalment of E2 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the fourth instalment of "E2" claims, covering 209 claims, 1/

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report. The aggregate amounts per country, based on the recommendations contained in annex II to the report, are as follows:

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Australia	4	1	17,834,441.24	437,197.62
Austria	1	5	13,530,461.15	20,019.00
Bahrain	1	3	80,694,360.82	1,979,774.56
Bangladesh	-	1	59,259.55	nil

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* Previously issued as document S/AC.26/Dec.87 (2000).

[1] The text of the report appears in document S/AC.26/2000/2 (annex IV above).

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Belgium	-	3	1,504,142.51	nil
Brazil	-	2	1,139,405.08	nil
Canada	2	4	1,748,609.44	598,492.27
China	1	5	4,234,044.68	44,076.84
Croatia	-	2	5,073,121.57	nil
Cyprus	-	5	1,345,298.05	nil
Czech Republic	1	5	12,612,961.14	207,185.60
Denmark	2	3	554,164.51	27,373.23
Egypt	-	2	475,302.94	nil
France	-	5	1,056,664.92	nil
Germany	4	2	790,868.49	69,517.55
Greece	1	3	12,153,094.68	1,265,443.25
Hungary	2	4	2,658,772.40	407,530.30
India	4	2	171,873.46	54,369.46
Indonesia	-	1	2,137,290.00	nil
Iran	1	-	4,058,401.00	1,251,923.50
Ireland	-	5	6,704,729.52	nil
Israel	-	4	14,397,480.72	nil
Italy	2	4	6,173,844.09	46,009.72
Japan	4	2	3,273,195.77	158,372.98
Lebanon	-	2	1,865,776.30	nil
Liechtenstein	1	1	6,148,224.89	13,960.00
Malaysia	1	-	11,524,057.84	7,951,639.28
Maldives	1	-	6,387,342.68	2,737,156.00
Morocco	-	3	5,536,250.00	nil
Netherlands	4	1	1,322,211.94	277,672.24
Pakistan	3	3	14,680,547.50	49,031.43
Poland	-	4	12,184,188.80	nil
Portugal	4	1	231,482.58	29,543.89
Republic of Korea	2	4	51,645,736.01	264,762.00
Romania	-	5	180,218,855.31	nil

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Russian Federation	1	-	52,111,239.61	1,046,186.00
Saudi Arabia	-	4	23,975,052.82	nil
Singapore	4	2	500,315.99	58,221.29
Spain	1	5	7,802,494.00	54,815.16
Sweden	1	2	9,179,494.19	1,332,954.91
Switzerland	4	2	3,778,816.62	2,002,347.79
The former Yugoslav Republic of Macedonia	-	6	13,686,822.49	nil
Tunisia	-	1	686,956.00	nil
Turkey	3	3	5,127,004.34	2,187,609.01
Uganda	-	1	2,650,215.94	nil
United Arab Emirates	2	4	1,753,426.04	151,080.45
United Kingdom	4	2	580,234.81	162,745.97
United States	2	4	10,374,341.61	1,398,873.88
Uruguay	-	1	50,110,325.00	nil
Corporate claim directly submitted by Josef Welser OHG (claim no. 4002394)	-	1	2,228,809.78	nil
Total	68	135	670,672,010.82	26,285,885.18

3. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)),

4. Recalls that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

5. Notes that no recommendations have been made at this stage for six claims referred to in annex II to the report,

6. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to each respective Government.

Annex VI

Report and recommendations made by the Panel of Commissioners concerning the seventh instalment of E3 claims*

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* Previously issued as document S/AC.26/2000/3.

CONTENTS

		Paragraphs	Page
	Introduction	1	204
I.	PROCEDURAL HISTORY	2 - 9	204
	A. The nature and purpose of the proceedings	2 - 3	204
	B. The procedural history of the claims in the seventh instalment	4 - 7	204
	C. Amending claims after filing	8	205
	D. The claims	9	205
II.	LEGAL FRAMEWORK	10 - 31	206
	A. Applicable law	10	206
	B. Liability of Iraq	11	207
	C. The "arising prior to" clause	12 - 13	207
	D. Application of the "direct loss" requirement	14 - 15	207
	E. Loss of Profits	16 - 17	208
	F. Date of loss	18	209
	G. Interest	19 - 20	209
	H. Currency exchange rate	21 - 23	209
	I. Evacuation losses	24	210
	J. Valuation	25 - 27	210
	K. Evidentiary requirements	28 - 31	210
III.	CLAIM OF INTEGRA BAAC	32 - 58	213
	A. Contract losses	33 - 47	214
	B. Loss of property	48 - 54	216
	C. Financial losses	55 - 57	217
	D. Recommendation for INTEGRA	58	217
IV.	CLAIM OF GIK HIDROGRADNJA	59 - 88	219
	A. Contract losses	60 - 78	220
	B. Iraqi bank accounts	79 - 86	223
	C. Interest	87	223
	D. Recommendation for Hidrogradnja	88	224
V.	CLAIM OF TRANSKOMPLEKT LTD	89 - 151	225
	A. Contract losses	92 - 106	226
	B. Real property losses	107 - 111	229
	C. Loss of tangible property	112 - 117	229
	D. Payment or relief to others	118 - 126	231
	E. Loss of profits	127 - 134	232
	F. Other losses	135 - 149	233
	G. Interest	150	235
	H. Recommendation for Transkomplekt	151	236

VI. CLAIM OF INGRA . . . . 152 - 206 237
  A. Contract losses . . . . 154 - 192 238
  B. Loss of tangible property . . . . 193 - 196 243
  C. Loss of profits . . . . 197 - 200 243
  D. Other losses . . . . 201 - 204 243
  E. Interest 205 244
  F. Recommendation for Ingra 206 244

VII. CLAIM OF ABB SCHALTANLAGEN GMBH . . . . 207 - 258 245
  A. Contract losses . . . . 209 - 223 246
  B. Loss of tangible property . . . . 224 - 230 249
  C. Payment or relief to others . . . . 231 - 241 250
  D. Financial losses . . . . 242 - 252 251
  E. Other losses . . . . 253 - 256 253
  F. Interest 257 253
  G. Recommendation for ABB Schaltanlagen 258 254

VIII. CLAIM OF ASEA BROWN BOVERI AG. . . . . 259 - 268 255
  A. "Subsidiary Motion" . . . . 260 - 266 256
  B. Interest 267 257
  C. Recommendation for ABB 268 257

IX. CLAIM OF HOCHTIEF AKIENGESELLSCHAF VORM. GEBR. HELFMANN . . . . 269 - 288 259
  A. Contract losses and "Subsidiary Motion" . . . . 272 - 280 260
  B. Iraqi bank accounts . . . . 281 - 286 262
  C. Interest 287 262
  D. Recommendation for Hochtief 288 263

X. CLAIM OF HEILIT & WOERNER BAU AG . . . . 289 - 302 265
  A. Contract losses and "Subsidiary Motion" . . . . 290 - 300 266
  B. Interest 301 268
  C. Recommendation for Heilit & Woerner 302 268

XI. CLAIM OF STRABAG AG . . . . 303 - 318 269
  A. Contract losses and "Subsidiary Motion" . . . . 306 - 316 270
  B. Interest 317 272
  C. Recommendation for Strabag 318 272

XII. CLAIM OF HINDUSTAN CONSTRUCTIONS COMPANY LIMITED 319 - 340 273
  A. Contract losses . . . . 320 - 326 274
  B. Loss of tangible property . . . . 327 - 334 275
  C. Other losses . . . . 335 - 338 276
  D. Interest 339 276
  E. Recommendation for Hindustan 340 277

XIII. CLAIM OF U.P. STATE BRIDGE CORPORATION LIMITED . 341 - 371 279
  A. Contract losses . . . . 342 - 349 280
  B. Loss of tangible property . . . . 350 - 358 281

C. Payment or relief to others . . . . 359 - 364 282
D. Financial losses . . . . 365 - 369 283
E. Interest 370 283
F. Recommendation for U.P. State Bridge 371 284

XIV. CLAIM OF GAMMON INDIA LIMITED . . . . 372 - 394 285
A. Loss of profits . . . . 374 - 381 286
B. Loss of tangible property . . . . 382 - 386 287
C. Financial losses . . . . 387 - 393 287
D. Recommendation for Gammon 394 289

XV. CLAIM OF F. LLI DELFINO S.P.A. . . . . 395 - 426 291
A. Contract losses . . . . 397 - 414 292
B. Loss of tangible property . . . . 415 - 419 294
C. Financial losses . . . . 420 - 425 295
D. Recommendation for Delfino 426 296

XVI. CLAIM OF SICOM S.P.A. . . . . 427 - 434 297
A. Loss of tangible property . . . . 429 - 433 298
B. Recommendation for SICOM 434 299

XVII. CLAIM OF ITALSTRADE S.P.A. 435 301

XVIII. CLAIM OF IMPRESIT GIROLA LODIGIANI (IMPREGILO) S.P.A 436 303

XIX. CLAIM OF VVO SELKHOZPROMEXPORT. . . . . 437 - 526 305
A. Contract losses . . . . 438 - 482 306
B. Loss of profits . . . . 483 - 493 312
C. Real property losses . . . . 494 - 498 314
D. Loss of tangible property . . . . 499 - 506 314
E. Payment or relief to others . . . . 507 - 518 317
F. Other losses . . . . 519 - 525 319
G. Recommendation for Selkhozpromexport 526 320

XX. CLAIM OF ENERGOPROJEKT HIDROINŽENJERING CONSULTING ENGINEERS CO. LTD . . . . 527 - 589 321
A. Contract losses . . . . 529 - 566 322
B. Loss of profits . . . . 567 - 579 327
C. Loss of tangible property . . . . 580 - 588 329
D. Recommendation for Energoprojekt 589 331

XXI. RECOMMENDATIONS 590 332

LIST OF TABLES

Page

1. INTEGRA'S CLAIM 214
2. RECOMMENDED COMPENSATION FOR INTEGRA . . 217
3. HIDROGRADNJA'S CLAIM 220
4. RECOMMENDED COMPENSATION FOR HIDROGRADNJA 224
5. TRANSKOMPLEKT'S CLAIM 226
6. RECOMMENDED COMPENSATION FOR TRANSKOMPLEKT 236
7. INGRA'S CLAIM 238
8. RECOMMENDED COMPENSATION FOR INGRA . . . 244
9. ABB SCHALTANLAGEN'S CLAIM 246
10. RECOMMENDED COMPENSATION FOR ABB SCHALTANLAGEN 254
11. ASEA BROWN BOVERI'S CLAIM 256
12. RECOMMENDED COMPENSATION FOR ABB 257
13. HOCHTIEF'S CLAIM 260
14. RECOMMENDED COMPENSATION FOR HOCHTIEF . . 263
15. HEILIT & WOERNER'S CLAIM 266
16. RECOMMENDED COMPENSATION FOR HEILIT & WOERNER 268
17. STRABAG'S CLAIM 270
18. RECOMMENDED COMPENSATION FOR STRABAG . . 272
19. HINDUSTAN'S CLAIM 274
20. RECOMMENDED COMPENSATION FOR HINDUSTAN . 277
21. U.P. STATE BRIDGE'S CLAIM 280
22. RECOMMENDED COMPENSATION FOR U.P. STATE BRIDGE 284
23. GAMMON'S CLAIM 286
24. RECOMMENDED COMPENSATION FOR GAMMON . . . 289
25. DELFINO'S CLAIM 292
26. RECOMMENDED COMPENSATION FOR DELFINO . . 296
27. SICOM'S CLAIM 298
28. RECOMMENDED COMPENSATION FOR SICOM . . . 299
29. SELKHOZPROMEXPORT'S CLAIM 306
30. RECOMMENDED COMPENSATION FOR SELKHOZPROMEXPORT 320
31. ENERGOPROJEKT'S CLAIM 322
32. RECOMMENDED COMPENSATION FOR ENERGOPROJEKT 331

Introduction

1. The Governing Council of the United Nations Compensation Commission (the "Commission") appointed the present Panel of Commissioners (the "Panel"), composed of Messrs. Werner Melis (Chairman), David Mace and Sompong Sucharitkul, at its twenty-second session in October 1996 to review construction and engineering claims filed with the Commission on behalf of corporations and other legal entities in accordance with the relevant Security Council resolutions, the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules") and other Governing Council decisions. This report contains the recommendations to the Governing Council by the Panel, pursuant to article 38(e) of the Rules, concerning eighteen claims included in the seventh instalment. Each of the claimants seeks compensation for loss, damage or injury allegedly arising out of Iraq's 2 August 1990 invasion and subsequent occupation of Kuwait. The claims submitted to the Panel in this instalment and addressed in this report were selected by the secretariat of the Commission from among the construction and engineering claims (the "E3 Claims") on the basis of criteria established under the Rules.

I. PROCEDURAL HISTORY

A. The nature and purpose of the proceedings

2. The status and functions of the Commission are set forth in the report of the Secretary-General pursuant to paragraph 19 of Security Council resolution 689 (1991) dated 2 May 1991 (S/22559). Pursuant to that report, the Commission is a fact-finding body that examines claims, verifies their validity, evaluates losses, recommends compensation, and makes payment of awards.

3. The Panel has been entrusted with three tasks in its proceedings. First, the Panel determines whether the various types of losses alleged by the claimants are within the jurisdiction of the Commission. Second, the Panel verifies whether the alleged losses are in principle compensable and had in fact been incurred by a given claimant. Third, the Panel determines whether these compensable losses were incurred in the amounts claimed.

B. The procedural history of the claims in the seventh instalment

4. On 26 January 1999 and 27 July 1999, the Panel issued procedural orders relating to the claims. In view of the complexity of the issues raised, the volume of the documentation underlying the claims and the compensation sought by the claimants, the Panel decided to classify each of the claims as "unusually large or complex" within the meaning of article 38(d) of the Rules. The Panel thus decided to complete its review of the claims within 12 months of the date of its procedural order of 26 January 1999.

5. The Panel performed a thorough and detailed factual and legal review of the claims. The Panel considered the evidence submitted by claimants in reply to requests for information and documents. It also considered Iraq's responses to the factual and legal issues raised in the twenty-fifth report of the Executive Secretary issued on 9 November 1998 in accordance with article 16 of the Rules.

6. After a review of the relevant information and documentation, the Panel made initial determinations as to the compensability of the loss elements of each claim. Pursuant to article 36 of the Rules, the Panel retained as its expert consultants accounting and loss adjusting firms, both with international and Persian Gulf experience to assist the Panel in the quantification of losses incurred in large construction projects. The Panel then directed its expert consultants to prepare comprehensive reports on each of the claims.

7. In drafting this report, the Panel has not included specific citations to restricted or non-public documents that were produced or made available to it for the completion of its work.

C. Amending claims after filing

8. The Panel notes that the period for filing category "E" claims expired on 1 January 1996. The Governing Council permitted claimants to file unsolicited supplements up to and including 11 May 1998. A number of the claimants included in the seventh instalment had submitted several supplements to their claimed amount up to 11 May 1998. In this report, the Panel has taken into consideration such supplements up to 11 May 1998. The Panel has only considered those losses contained in the original claim, as supplemented by the claimants, up to 11 May 1998, except where such losses have been withdrawn or reduced by the claimants. Where the claimants reduced the amount of their losses the Panel has considered the reduced amount. This, however, does not preclude corrections relating to arithmetical and typographical errors.

D. The claims

9. This report contains the Panel's findings for losses allegedly caused by Iraq's invasion and occupation of Kuwait with respect to the following claims:

a. INTEGRA BAAC, which seeks compensation in the amount of USD 22,523,145;

b. GIK Hidrogradnja, which seeks compensation in the amount of USD 21,450,689;

c. Transkomplekt Ltd., which seeks compensation in the amount of USD 60,668,364;

d. Ingra d.d., which seeks compensation in the amount of USD 52,209,617;

e. ABB Schaltanlagen GmbH, which seeks compensation in the amount of USD 11,253,167;

f. Asea Brown Boveri AG, which seeks compensation in the amount of USD 28,645,079;

g. Hochtief Aktiengesellschaft vorm. Gebr. Helfmann, which seeks compensation in the amount of USD 569,812,167;

h. Heilit & Woerner Bau AG, which seeks compensation in the amount of USD 79,898,401;

i. Strabag AG, which seeks compensation in the amount of USD 122,118,584;

j. Hindustan Construction Company Limited, which seeks compensation in the amount of USD 17,209,851;

k. U.P. State Bridge Corporation Limited, which seeks compensation in the amount of USD 8,698,000;

l. Gammon India Limited, which seeks compensation in the amount of USD 4,171,420;

m. F.lli Delfino S.p.A., which seeks compensation in the amount of USD 677,354;

n. SICOM S.p.A., which seeks compensation in the amount of USD 1,002,048;

o. VVO Selkhozpromexport, which seeks compensation in the amount of USD 21,862,754; and

p. Energoprojekt Hidroinženjering Consulting Engineers Co. Ltd., which seeks compensation in the amount of USD 26,172,434.

II. LEGAL FRAMEWORK

A. Applicable law

10. As set forth in paragraphs 16-18 and 23 of the "Report and Recommendations Made by the Panel of Commissioners Concerning the First Instalment of 'E3' Claims" (S/AC.26/1998/13) (the "First Report"), the Panel determined that paragraph 16 of Security Council resolution 687 (1991) reaffirmed the liability of Iraq and defined the jurisdiction of the Commission. The Panel applied Security Council resolution 687 (1991), other

relevant Security Council resolutions, decisions of the Governing Council, and, where necessary, other relevant rules of international law.

B. Liability of Iraq

11. As set forth in paragraph 16 of the "Report and Recommendations Made by the Panel of Commissioners concerning the Third Instalment of 'E3' Claims" (S/AC.26/1999/1) (the "Third Report"), the Panel determined that "Iraq" as used in decision 9 (S/AC.26/1992/9) means the Government of Iraq, its political subdivisions, or any agency, ministry, instrumentality or entity (notably public sector enterprises) controlled by the Government of Iraq. At the time of Iraq's invasion and occupation of Kuwait, the Government of Iraq regulated all aspects of economic life other than some peripheral agriculture, services and trade.

C. The "arising prior to" clause

12. In its First Report, the Panel adopted the following interpretation of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) with respect to contracts to which Iraq was a party:

(a) the phrase "without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through normal mechanisms" was intended to have an exclusionary effect on the Commission's jurisdiction, i.e., that such debts and obligations could not be brought before the Commission;

(b) the period described by "arising prior to 2 August 1990" should be interpreted with due consideration to the purpose of the phrase, which was to exclude Iraq's existing bad debts from the Commission's jurisdiction;

(c) the terms "debts" and "obligations" should be given the customary and usual meanings applied to them in ordinary discourse; and

(d) the use of a three month payment delay period to define the jurisdictional period is reasonable and consistent both with the economic reality in Iraq prior to the invasion and with ordinary commercial practices.

13. The Panel finds that a claim relating to a "debt or obligation arising prior to 2 August 1990" means a debt for payment that is based on work performed or services rendered prior to 2 May 1990.

D. Application of the "direct loss" requirement

14. The Governing Council's decision 7 (S/AC.26/1991/7/Rev.1), decision 9 (S/AC.26/1992/9) and decision 15 (S/AC.26/1992/15) provide specific instructions to the Panel regarding the interpretation of the "direct loss"

requirement. Applying these decisions, the Panel examined the loss types presented in the claims to determine whether, with respect to each loss element, the requisite causal link - a "direct loss" - was present.

15. The Panel made the following findings regarding the meaning of "direct loss":

(a) with respect to physical assets in Iraq and in Kuwait on 2 August 1990, a claimant can prove a direct loss by demonstrating that the breakdown in civil order in those countries, which resulted from Iraq's invasion and occupation of Kuwait, caused the claimant to evacuate its employees and that the evacuation resulted in the abandonment of the claimant's physical assets;

(b) with respect to losses relating to contracts to which Iraq was a party, Iraq may not rely on force majeure or similar legal principles as a defence to its obligations under the contract;

(c) with respect to losses relating to contracts to which Iraq was not a party, a claimant may prove a direct loss if it can establish that Iraq's invasion and occupation of Kuwait or the breakdown in civil order in Iraq or Kuwait following the invasion caused the claimant to evacuate the personnel needed to perform the contract;

(d) costs incurred in taking reasonable steps to mitigate the losses incurred by the claimant are direct losses, bearing in mind that the claimant was under a duty to mitigate any losses that could reasonably be avoided after the evacuation of its personnel from Iraq or Kuwait; and

(e) the loss of use of funds on deposit in Iraqi banks is not a direct loss unless the claimant can demonstrate that Iraq was under a contractual or other specific duty to exchange those funds for convertible currencies and to authorize the transfer of the converted funds out of Iraq and that this exchange and transfer was prevented by Iraq's invasion and occupation of Kuwait.

E. Loss of profits

16. In order to substantiate a claim for loss of profits, a claimant must prove that it had an existing contractual relationship at the time of the invasion. Second, a claimant must prove that the continuation of the relationship was rendered impossible by Iraq's invasion and occupation of Kuwait. Finally, profits should be measured over the life of the contract. A claimant must demonstrate that the contract would have been profitable as a whole. Thus, a claimant must demonstrate that it would have been profitable to complete the contract, not just that the contract was profitable at a single moment in time.

17. Calculations of a loss of profits claim should take into account the inherent risks of the particular project and the ability of a claimant to realize a profit in the past. The speculative nature of some projects requires the Panel to view the evidence submitted with a critical eye. In order to establish with "reasonable certainty" a loss of profits claim, the Panel requires that a claimant submit not only the contracts and invoices related to the various projects, but also detailed financial statements, including audited statements where available, management reports, budgets, accounts, time schedules, progress reports, and a breakdown of revenues and costs, actual and projected for the project.

F. Date of loss

18. The Panel must determine "the date the loss occurred" within the meaning of Governing Council decision 16 (S/AC.26/1992/16) for the purpose of recommending compensation for interest and for the purpose of determining the appropriate exchange rate to be applied to losses stated in currencies other than in United States dollars. Where applicable, the Panel has determined the date of loss for each claim.

G. Interest

19. According to decision 16 (S/AC.26/1992/16), "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award." In decision 16 the Governing Council further specified that "[i]nterest will be paid after the principal amount of awards," while postponing decision on the methods of calculation and payment of interest.

20. The Panel finds that interest shall run from the date of loss, or, unless otherwise established, on 2 August 1990.

H. Currency exchange rate

21. While many of the costs incurred by the claimants were denominated in currencies other than United States dollars, the Commission issues its awards in that currency. Therefore, the Panel is required to determine the appropriate rate of exchange to apply to losses expressed in other currencies.

22. The Panel finds that the exchange rate set forth in the contract is the appropriate rate for losses under the relevant contracts because this was specifically bargained for and agreed to by the parties.

23. For non-contractual losses, the Panel finds the appropriate exchange rate to be the prevailing commercial rate, as evidenced by the United Nations Monthly Bulletin of Statistics on the date of loss, or, unless otherwise established, from 2 August 1990.

I. Evacuation losses

24. In accordance with paragraph 21(b) of decision 7 of the Governing Council, the Panel finds that the costs associated with evacuating and repatriating employees from Iraq between 2 August 1990 and 2 March 1991 are compensable to the extent that such costs are proven by the claimant. Compensable costs consist of temporary and extraordinary expenses relating to evacuation and repatriation, including transportation, food and accommodation.

J. Valuation

25. The Panel developed, with the assistance of the secretariat and the Panel's expert consultants, a verification program that addresses each loss item. The valuation analysis used by the Panel's expert consultants ensures clarity and consistency in the application of certain valuation principles to the construction and engineering claims.

26. After receipt of all claim information and evidence, the Panel's expert consultants applied the verification program. Each loss element was analysed individually according to a set of instructions. The expert consultants' analysis resulted in a recommendation of compensation in the amount claimed, an adjustment to the amount claimed, or a recommendation of no compensation for each loss element. In those instances where the Panel's expert consultants were unable to respond decisively, the issue was brought to the attention of the Panel for further discussion and development.

27. For tangible property losses, the Panel adopted historical cost minus depreciation as its primary valuation method.

K. Evidentiary requirements

28. Pursuant to article 35(3) of the Rules, corporate claims must be supported by evidence sufficient to demonstrate the circumstances and amount of the claimed loss. The Governing Council has made it clear in paragraph 5 of decision 15 that, with respect to business losses, there "will be a need for detailed factual descriptions of the circumstances of the claimed loss, damage or injury" in order to recommend compensation.

29. The category "E" claim form requires all corporations and other legal entities that have filed claims to submit with their claim form "a separate statement explaining its claim ('Statement of Claim'), supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss".

30. In those cases where the original submission of the claim inadequately supported the alleged loss, the secretariat prepared and issued a written communication to the claimant requesting specific information and documentation regarding the loss (the "claim development letter"). In

reviewing the subsequent submissions, the Panel noted that in many cases the claimant still did not provide sufficient evidence to support its alleged losses.

31. The Panel is required to determine whether these claims are supported by sufficient evidence and, for those that are so supported, must recommend the appropriate amount of compensation for each compensable claim element. This requires the application of relevant principles of the Commission's rules on evidence and an assessment of the loss elements according to these principles. The recommendations of the Panel are set forth below.

III. CLAIM OF INTEGRA BAAC

32. INTEGRA BAAC (INTEGRA") is a business community (or association) registered in Bosnia & Herzegovina, which is involved in implementing or performing investment or capital works abroad. INTEGRA seeks compensation in the amount of USD 22,523,145 for contract losses, loss of property and financial losses.

Table 1. INTEGRA'S CLAIM

Claim element	Claim amount (USD)
Contract losses	4,253,404
Loss of property	2,147,741
Financial losses	16,122,000
TOTAL	22,523,145

A. Contract losses

1. Facts and contentions

33. INTEGRA seeks compensation in the amount of USD 4,253,404 for contract losses allegedly incurred in connection with a number of contracts in Iraq.

(a) Hotel Palestine Meridien

34. On 13 August 1978, INTEGRA entered into a contract with the State Organization for Tourism (the "Employer") for the construction of the Hotel Palestine Meridien (the "hotel contract"). The hotel contract was scheduled to be completed in 31 months from 13 August 1978. By an addendum to the contract in April 1981, the completion date was extended to 31 December 1981. However, INTEGRA did not hand over the hotel until 7 April 1982 and did not obtain the handover certificate until 3 April 1988.

35. INTEGRA seeks compensation of USD 400,974, which represents the amount of contract debts and termination costs allegedly owed to INTEGRA less the total amount of payments received from the Employer.

(b) Iraqi Fashion House

36. INTEGRA asserted that it entered into a contract with the Ministry of Culture and Information for the construction of "the Iraqi Fashion House" (the "Iraqi Fashion House contract"). INTEGRA failed to state the date of the contract and to provide a copy thereof.

37. INTEGRA stated that work on the Iraqi Fashion House contract was performed between 1982 and 1983 and that the final handover was made on 25 September 1987. Payment of the outstanding amount of USD 304,000 was

deferred until 31 December 1990 according to a deferred payments agreement between Iraq and the former Yugoslavia. INTEGRA seeks compensation for this amount, which, it alleged, it was never paid.

(c) Iraqi Atomic Energy Commission

38. On 10 November 1984, INTEGRA entered into three contracts with the Iraqi Atomic Energy Commission ("IAEC") for the construction of a library and a complex of engineering buildings, restaurant, two cafeterias and other buildings. INTEGRA also entered into a contract with the IAEC dated 28 January 1985 for the construction of general stores (collectively referred to as the "IAEC contracts").

39. INTEGRA completed and handed over the contract works in 1987. Payment was not effected at that stage as the outstanding amount was included in a deferred payments agreement between Iraq and the former Yugoslavia.

40. INTEGRA seeks compensation of USD 2,275,616 and IQD 344,100 for allegedly unpaid contract works and compensation of USD 78,408 and IQD 10,323 for alleged termination costs.

2. Analysis and valuation

41. The Panel has defined the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) to limit the jurisdiction of the Commission to exclude debts of the Government of Iraq if the performance relating to that obligation took place prior to 2 May 1990.

42. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) INTEGRA had, in each case, a contract with Iraq.

43. The Panel finds that the contract losses alleged by INTEGRA relate entirely to work that was performed prior to 2 May 1990.

44. The Panel recommends no compensation for contract losses as they relate to debts and obligations of Iraq arising prior to 2 August 1990 and, therefore, are outside the jurisdiction of the Commission.

45. The Panel finds that for the purposes of Security Council resolution 687 (1991) the deferred payments agreement did not have the effect of novating the debts.

46. The Panel recommends no compensation for the alleged termination costs as INTEGRA has not submitted sufficient evidence to support its claims for such alleged costs.

3. Recommendation

47. The Panel recommends no compensation for contract losses.

B. Loss of property

1. Facts and contentions

48. INTEGRA seeks compensation in the amounts of USD 969,328 and USD 1,178,413 for loss of real and tangible property in connection with the hotel and IAEC contracts, respectively.

(a) Hotel contract

49. INTEGRA stated that it imported new machinery, "instruments of labor" and provided pre-fabricated housing, including a cook house, restaurants, storehouse, workshop and administrative buildings into Iraq in connection with the hotel contract. INTEGRA later used some of the same construction machinery and equipment in connection with the Iraqi Fashion House and IAEC contracts. INTEGRA asserted that it was prevented from re-exporting the machinery and equipment due to both the war between Iraq and Iran and the alleged impossibility of obtaining a certificate of handover for the hotel contract.

50. INTEGRA seeks compensation in the amount of USD 969,328 for loss of construction machinery, "transportation means", measuring instruments, office equipment, office furniture, auxiliary "pre-fabricated objects" and "the equipment for the objects".

(b) The IAEC contracts

51. INTEGRA seeks compensation of USD 1,178,413 for loss of tangible property in connection with the IAEC contracts. INTEGRA did not explain how the property was allegedly lost or damaged or how the alleged losses arose. The properties for which INTEGRA alleged losses consisted of buildings in the workers living area, "instruments of labor", office furniture and equipment.

2. Analysis and valuation

52. The Panel notes that INTEGRA did not submit any evidence in support of its alleged losses except for a financial statement. INTEGRA also failed to submit any evidence of its title to or right to use the real or tangible property.

53. The Panel recommends no compensation for loss of real and tangible property as INTEGRA did not provide sufficient evidence in support of its alleged losses.

3. Recommendation

54. The Panel recommends no compensation for loss of property.

C. Financial losses

1. Facts and contentions

55. INTEGRA seeks compensation in the amounts of USD 13,160,000 and USD 2,962,000 for expenses allegedly incurred by INTEGRA for bank guarantees and insurance in connection with the hotel and IAEC contracts, respectively. INTEGRA did not provide any other information concerning this aspect of its claim despite being requested to do so in a claim development letter.

2. Analysis and valuation

56. The Panel recommends no compensation for the alleged losses as INTEGRA did not submit any evidence to support its claim.

3. Recommendation

57. The Panel recommends no compensation for financial losses.

D. Recommendation for INTEGRA

Table 2. RECOMMENDED COMPENSATION FOR INTEGRA

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract loss	4,253,404	nil
Loss of property	2,147,741	nil
Financial losses	16,122,000	nil
TOTAL	22,523,145	nil

58. Based on its findings regarding INTEGRA's claim, the Panel recommends no compensation.

IV. CLAIM OF GIK HIDROGRADNJA

59. GIK Hidrogradnja Civil Engineering & General Contracting Co. ("Hidrogradnja") is a publicly owned enterprise incorporated in Bosnia & Herzegovina, which is involved in the design, construction and supervision of civil engineering and construction projects. Hidrogradnja seeks compensation in the amount of USD 21,450,689 for contract losses, financial losses and interest.

Table 3. HIDROGRADNJA'S CLAIM

Claim element	Claim amount (USD)
Contract losses	12,540,747
Iraqi bank accounts	2,312,586
Interest	6,597,356
TOTAL	21,450,689

A. Contract losses

1. Facts and contentions

60. Hidrogradnja entered into a contract dated 8 July 1981 (the "contract") with the Iraqi Ministry of Agriculture and Irrigation, the State Organization for Dams (the "Employer") for the construction and equipping of a hydroelectric power station in Al Qadissiyah. The power station was part of the Haditha Dam Project in Iraq. The original contract price was IQD 169,312,930 of which IQD 98,057,651 was allocated to the civil engineering works and IQD 71,255,279 was allocated to electrical engineering works. The contract price was later increased to IQD 169,531,028 of which IQD 98,385,922 was allocated to the civil engineering works and IQD 71,145,106 was allocated to electrical engineering works.

61. Ingra d.d., a Croatian corporation whose claim is also considered in this report, was retained by Hidrogradnja as one of the subcontractors for the provision of the electrical engineering works.

62. The contract works were divided into four sections. The first three sections comprised the supply and installation of two generating units each and the fourth section consisted of appurtenant works.

63. Contract payments were deferred under a deferred payments agreement (the "deferred payments agreement") entered into between Iraq and the former Yugoslavia.

64. The contract payments were to be made following the submission of interim certificates. The Employer deducted retention money in the total amount of 10 per cent of the contract price from the interim payments.

Under the terms of the contract, the Employer was obliged to repay the retention money in the amounts of one half per cent of the contract price following the issue of the Provisional Acceptance Certificate and one half per cent of the contract price following the issue of the Final Acceptance Certificate for each unit.

65. Hidrogradnja commenced work under the Al Qadissiyah contract in July 1981 and substantially completed the contract works by 30 September 1986. Provisional Acceptance Certificates were issued for the first three sections in 1986 and for the final section in 1987. Final Acceptance Certificates for units 1 to 3 were issued on 12 March 1988 and the Final Acceptance Certificate for unit 4 was issued on 25 June 1988.

66. Hidrogradnja alleged that units 5 and 6 were damaged prior to Iraq's invasion and occupation of Kuwait and that Ingra undertook to carry out the necessary repairs. Hidrogradnja did not explain how the damage was caused, but asserted that it was not responsible for the damage. The necessity for repairs delayed the issue of the Final Acceptance Certificates for both units. The Final Acceptance Certificate for unit 5 was issued on 10 October 1989, following which the Employer repaid the local currency portion of the retention money on 31 July 1990 to Hidrogradnja's bank account in Baghdad.

67. Hidrogradnja asserted that, as far as it was aware, the repairs of unit number 6 were completed by 2 August 1990. However, the Final Acceptance Certificate for unit number 6 was not issued with the result that Hidrogradnja did not receive either the local or foreign currency portions of the retention money due in respect of that unit on the issue of the Final Acceptance Certificate. Hidrogradnja attributed the alleged loss of the retention money to the "outbreak of war in Iraq".

68. Hidrogradnja seeks compensation in the amount of USD 10,880,148 for "registered" receivables and USD 1,660,599 for "unregistered" receivables. The claim for "registered" receivables relates to losses allegedly incurred in connection with unpaid interim certificates and retention money, which were registered under the deferred payments agreement.

69. The claim for "unregistered" receivables relates to the losses allegedly incurred in connection with the unpaid portion of the retention money for unit number 6 due for release to Hidrogradnja on the issue of the Final Acceptance Certificate for unit number 6, which was not registered under the deferred payments agreement.

2. Analysis and valuation

70. Hidrogradnja provided as evidence of its alleged losses an extract of the contract "registration" of the Haditha Project, correspondence from Hidrogradnja's bank, approval by the Central Bank of Iraq for the payment of the retention money for unit number 5, copies of the Provisional and Final Acceptance Certificates, correspondence received from Jugobanka concerning a

credit to account number 17 and money collected from Iraq under the deferred payments agreement, a review of monthly interim certificates and expected payments from 1 July 1981 to 30 August 1990 and a list of payments received according to the monthly invoices.

71. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Hidrogradnja had a contract with Iraq.

72. The Panel finds that the portion of the "registered" receivables that consists of amounts owed under the interim certificates relates entirely to work performed prior to 2 May 1990. Further, the Panel finds that the unpaid retention monies that comprise the remainder of the "registered" receivables constitute a debt or obligation of Iraq arising prior to 2 August 1990.

73. The Panel recommends no compensation of the claim for "registered receivables" as it relates to debts or obligations arising prior to 2 August 1990 and, therefore, is outside the jurisdiction of the Commission.

74. The Panel finds that for the purposes of Security Council resolution 687 (1991) the deferred payments agreement did not have the effect of novating the debt.

75. The Panel finds that the portion of the claim for "unregistered" receivables that relates to losses incurred in connection with the portion of the retention money for unit number 6, payable upon the issue of the Provisional Acceptance Certificate constitutes a debt or obligation of Iraq arising prior to 2 August 1990.

76. The Panel finds that, with respect to the remaining portion of the retention money for unit number 6, due on the issue of the Final Acceptance Certificate, in the absence of any evidence to the contrary, the failure of the Employer to issue the Final Acceptance Certificate for unit number 6 was a direct result Iraq's invasion and occupation of Kuwait.

77. The Panel recommends compensation in the amount of USD 1,660,599, which represents the United States dollar equivalent of IQD 491,625, being the retention money payable under the contract for the civil engineering works for unit number 6 due on the issue of the Final Acceptance Certificate.

3. Recommendation

78. The Panel recommends compensation in the amount of USD 1,660,599 for contract losses.

B. Iraqi bank accounts

1. Facts and contentions

79. Hidrogradnja seeks compensation of USD 2,312,586 for the loss of account number 4247 with the Alwiyah branch of the Rafidain Bank in Baghdad and account number 237 with the Al Rasheed bank in Haditha. Hidrogradnja alleged that it held IQD 654,290 and IQD 30,357 in each account, respectively.

80. According to the information provided by Hidrogradnja, the local currency portion of each payment due under the contract was deposited in Hidrogradnja's account with the Rafidain Bank in Baghdad. Hidrogradnja used its account with the Al Rasheed bank at Haditha to settle local payments.

81. Hidrogradnja asserted that Iraq's invasion and occupation of Kuwait forced it to abandon the project and withdraw from Iraq thereby irrevocably forfeiting the funds held in the accounts. Hidrogradnja alleged that it is unable to retrieve these funds and, hence, they have become unavailable and "definitely lost".

82. Hidrogradnja acknowledged in its reply to a claim development letter that the funds were not transferable and were intended to be expended in Iraq.

2. Analysis and valuation

83. The Panel finds that the funds in the accounts were intended to be fully expended in Iraq and were not transferable.

84. Further, Hidrogradnja submitted no evidence of its losses save for two translated statements of account from the Rafidain and Al Rasheed banks, which, according to Hidrogradnja, were issued in January 1992.

85. The Panel recommends no compensation for loss of the funds in Hidrogradnja's Iraqi bank accounts as there is no proof of loss of the funds.

3. Recommendation

86. The Panel recommends no compensation for financial losses.

C. Interest

87. With reference to the issue of interest, the Panel refers to paragraphs 18 and 19 of this report.

D. Recommendation for Hidrogradnja

Table 4. RECOMMENDED COMPENSATION FOR HIDROGRADNJA

Claim element	Claim amount (USD)	Recommended compensation (USD)
Contract losses	12,540,747	1,660,599
Iraqi bank accounts	2,312,586	nil
Interest	6,597,356	nil
TOTAL	21,450,689	1,660,599

88. Based on its findings regarding Hidrogradnja's claim, the Panel recommends compensation in the amount of USD 1,660,599.

V. CLAIM OF TRANSKOMPLEKT. LTD.

89. Transkomplekt Ltd. ("Transkomplekt"), a Bulgarian state owned limited liability company, sought in its original submission compensation in the amounts of IQD 10,285,399 (USD 33,004,704) and USD 47,250,590 for contract losses, losses relating to tangible and income producing properties, payment or relief to others, and various other losses.

90. In its reply to a claim development letter, Transkomplekt made significant changes to its claim on the basis that since the date of its original submission, the project, in connection with which the alleged losses arose, had been completed. Although Transkomplekt reduced the total claimed amount to USD 74,225,570 for contract losses, real property losses, loss of tangible property, payment or relief to others, loss of profits, other losses and interest, it increased some loss items and introduced new loss items. The Panel has only considered those losses contained in the original claim except where such losses have been withdrawn by Transkomplekt. Where Transkomplekt reduced the amount of losses in its reply to the claim development letter, the Panel has considered the reduce amount.

91. The Panel, therefore, has considered the reduced amount of USD 60,668,364.

Table 5. TRANSKOMPLEKT'S CLAIM

Claim element	Claim amount (USD)
Contract losses	3,276,657
Real property losses	3,016,356
Loss of tangible property	37,286,409
Payment or relief to others	94,400
Loss of profits	14,447,100
Other losses	1,009,835
Interest	1,537,607
TOTAL	60,668,364

A. Contract losses

1. Facts and contentions

92. On 3 August 1986, Transkomplekt entered into a contract (the "contract") with the Iraqi State Corporation for Roads and Bridges (the "Employer") for the construction of two sections of a freeway described therein as "Expressway No.1, Sections R/5A & R/5B - Hilla-Diwaniya and Diwanya freeway" (the "project").

93. The project was due to be completed in 24 months from 13 September 1986 and a maintenance period of 12 months was to run from the date of completion. The first of the two sections, section R/5A, was opened for regular operation in February 1989. However, the Employer did not accept the section until 3 January 1991 subject to completion of a number of outstanding matters.

94. The Employer extended the completion date for section R/5B to 13 January 1991. Transkomplekt continued to work on the section following Iraq's invasion and occupation of Kuwait until 14 January 1991, the date upon which it left the project site and evacuated its employees. Transkomplekt alleged that it was granted exit visas for its employees on condition that the issue of exit visas did not exempt Transkomplekt from its contractual obligations and that the responsibility for any consequences due to the departure of the employees was that of Transkomplekt. Transkomplekt stated that after 14 January 1991 it assigned completion of the contract works to the Resident Engineer's office.

95. Transkomplekt stated that in June and July 1991, its representatives visited the project site and discovered that it had been burnt and destroyed. At the time of their visit, the project site was allegedly occupied by Iraqi army personnel. Transkomplekt asserted that during these visits its representatives prepared a claim for compensation, which it submitted to the Employer in July 1991, and also wrote to the Resident Engineer requesting that a committee be established to consider its claim for damages.

96. Transkomplekt stated that it corresponded with the Employer from 1991 to 1995 with a view to obtaining the "Final" and "Maintenance Certificates". Transkomplekt stated that a "Final Certificate" was issued on 19 September 1993 and a "Maintenance Certificate" was issued 23 November 1994. On 16 March 1995, the Employer issued the final measurement for section R/5B. In April 1995, the Employer wrote to the General State Organization of Taxes requesting that the necessary action be taken to obtain a "Clearance Certificate". Transkomplekt asserted, however, that due to present conditions in Iraq it is not possible to obtain all necessary documentation to obtain payment.

(a) 5 per cent cash payments

97. Under the terms of the contract, the Employer was obliged to pay Transkomplekt 50 per cent of the contract price in Iraqi dinar, 45 per cent in United States dollars, which was to be deferred under a credit arrangement between Iraq and Bulgaria, and 5 per cent cash payments in United States dollars. The amount of the cash payments was based on the amount of work recorded in monthly certificates submitted by Transkomplekt to the Employer. The Central Bank of Iraq was responsible for transferring the cash payments to Transkomplekt via the Bulgarian Foreign Trade Bank.

98. Transkomplekt stated that the Central Bank of Iraq made 11 payments of the cash portion between February 1988 and April 1990 totaling USD 1,130,812. Transkomplekt seeks compensation of ID 965,994 in respect of the remaining 5 per cent cash portions, which, Transkomplekt alleged, were withheld by the Central Bank of Iraq as a result of Iraq's invasion and occupation of Kuwait.

(b) Advance payments to subcontractors

99. Transkomplekt asserted that it made advance payments to three of its subcontractors, Philips, Comaco and G.T.C. Kuwait in respect of services, which, it alleged, were never performed as a result of Iraq's invasion and occupation of Kuwait. Transkomplekt subsequently withdrew its claim in respect of G.T.C. Kuwait in its reply to a claim development letter. Transkomplekt provided only a very brief description of the services provided by Philips and Comaco. Transkomplekt seeks compensation of ID 55,125 in respect of advance payments allegedly made to Philips and Comaco.

2. Analysis and valuation

100. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Transkomplekt had a contract with Iraq.

101. Transkomplekt asserted in its reply to the claim development letter that prior to Iraq's invasion and occupation of Kuwait, the Central Bank of Iraq had failed to transfer amounts into its account in Bulgaria on the basis that there were shortages of convertible currency. Hence, there had been ongoing delays in paying the cash portion prior to Iraq's invasion and occupation of Kuwait as there were already cash shortages at the Central Bank of Iraq.

102. The Panel recommends no compensation for the part of the allegedly unpaid 5 per cent cash portion that relates to work performed prior to 2 May 1990 as it is outside the jurisdiction of the Commission.

103. With reference to the remainder of the claim for the allegedly unpaid 5 per cent cash portion that is within the jurisdiction of the Commission, the Panel recommends no compensation as Transkomplekt failed to demonstrate that the Employer's failure to pay was a direct result of Iraq's invasion and occupation of Kuwait.

104. Transkomplekt provided as evidence of the advance payments allegedly made to the subcontractors, Philips and Comaco, copies of balance sheets for the years 1991 to 1996 and an affidavit of its former chief accountant verifying the amounts due. However, Transkomplekt failed to provide proof of payment to the subcontractors.

105. The Panel recommends no compensation for the amounts allegedly due from the subcontractors, Philips and Comaco, as Transkomplekt did not provide sufficient evidence in support of its alleged losses.

3. Recommendation

106. The Panel recommends no compensation for contract losses.

B. Real property losses

1. Facts and contentions

107. Transkomplekt seeks compensation of ID 940,000 (USD 3,016,356) for the cost of repairing damage allegedly caused to the completed contract works. Transkomplekt stated that the repairs were carried out by the Resident Engineer at Transkomplekt's expense.

108. Transkomplekt had included this aspect of its claim as loss of tangible property in the "E" claim form, but due to nature of the alleged losses it has been reclassified as loss of real property.

2. Analysis and valuation

109. Transkomplekt failed to provide any evidence of its title to or right to use of the damaged property. It provided information on the units rates and a summary of the Bill of Quantities, but omitted to provide a copy of the Bill of Quantities itself. Transkomplekt failed to provide evidence of payment of the alleged repair costs.

110. The Panel recommends no compensation for loss of real property as Transkomplekt has failed to provide sufficient evidence in support of its alleged losses.

3. Recommendation

111. The Panel recommends no compensation for loss of real property.

C. Loss of tangible property

1. Facts and contentions

112. Transkomplekt seeks compensation of USD 37,286,409 for loss of tangible property as set out below:

Loss item	Asserted value (USD)
Machinery and equipment	
- Transkomplekt	16,560,000
Subcontractors:	
- Electroimpex	302,919
- Autotransport	8,534,040
- G.T.C. Kuwait	667,450
- Al-Rayhana	3,050,000
Subtotal	29,114,409
Furniture	7,329,000
Materials in stock	843,000
TOTAL	37,286,409

113. Transkomplekt originally stated a loss of tangible property in the amounts of IQD 1,569,512 and USD 3,733,555. However, it had incorrectly classified losses that should have been classified as loss of tangible property under other loss headings. Therefore, the corrected value of Transkomplekt's claim for loss of tangible property is USD 37,286,409.

114. Transkomplekt stated that in June and July 1991, its representatives visited the project site and discovered that it had been burnt and destroyed. Reports provided by Transkomplekt allege that the destruction of Transkomplekt's property occurred during an attack on the project camp in March 1991.

2. Analysis and valuation

115. Transkomplekt failed to provide copies of invoices or other documents of title in respect of any of the tangible property. It asserted that these records have been destroyed.

116. The Panel recommends no compensation as Transkomplekt has failed to provide sufficient evidence of its title to or right to use the tangible property.

3. Recommendation

117. The Panel recommends no compensation for loss of tangible property.

D. Payment or relief to others

1. Facts and contentions

118. Transkomplekt stated that there were 386 employees on the project site on 2 August 1990. It alleged that its employees and their dependants were initially detained in Iraq following Iraq's invasion and occupation of Kuwait, but after 1 September 1990 they were permitted to leave Iraq. Transkomplekt alleged that its employees and their dependants were evacuated from Iraq between September 1990 and 14 January 1991.

119. Transkomplekt seeks compensation of USD 94,400 for payment or relief to others in respect of the additional costs of evacuating its employees and their dependants.

120. Transkomplekt asserted that the estimated usual cost of repatriation was USD 70 per person, whereas the actual cost of repatriation was on average USD 382 per person. Thus, Transkomplekt calculated that the additional cost of evacuation per person was USD 312. Although Transkomplekt stated that it evacuated 386 persons, it only sought additional costs in respect of 303 persons.

121. According to Transkomplekt, the evacuation was organized as follows:

Evacuation route	Number of evacuees
Bus to Amman and flight to Bulgaria	53
Flight to Bulgaria via Moscow with Aeroflot	15
Flight to Bulgaria with Iraqi Airways	121
Bus to Bulgaria via Turkey	107
Flight to Bulgaria with Balkan Airlines	60
Company transport to Bulgaria	30
TOTAL	386

2. Analysis and valuation

122. The Panel finds that based on the actual cost of evacuating the 107 persons by bus via Turkey, the normal cost of repatriating employees from Iraq was USD 153 per person.

123. The Panel notes that with the exception of the evidence submitted in respect of evacuating the 107 persons by bus via Turkey, the only evidence of payment provided by Transkomplekt is evidence of payment to the Bulgarian Embassy for the cost of bus fares and customs duties incurred in evacuating. 50 persons by bus from Baghdad to Amman.

124. The Panel recommends compensation of USD 4,566 for the extraordinary costs of evacuating the 50 persons by bus to Amman for which Transkomplekt has provided evidence of payment. The Panel has determined this amount by deducting the amount of USD 7,650, which represents the normal cost of repatriating employees from Iraq per person multiplied by 50 persons, from the claimed amount of IQD 3,807 (USD 12,216) to arrive at an extraordinary cost of USD 4,566.

125. The Panel recommends no compensation for the other claimed losses under this heading as Transkomplekt has not provided sufficient proof of payment of the asserted costs in support of its alleged losses.

3. Recommendation

126. The Panel recommends compensation in the amount of USD 4,566 for payment or relief to others.

E. Loss of profits

1. Facts and contentions

127. Transkomplekt seeks compensation for two alleged losses, which due to their nature have been reclassified as claims for loss of profits. Transkomplekt seeks compensation of USD 14,040,000 for the alleged loss of rental income from leasing plant and equipment and USD 407,100 for allegedly reduced productivity between 2 August 1990 and 14 January 1991.

128. Transkomplekt asserted that its would have rented out plant and machinery following completion of section R/5B on 13 January 1991. Transkomplekt alleged that as a result of Iraq's invasion and occupation of Kuwait it was unable to do so and, therefore, lost expected rental income. The alleged loss is calculated at 75 per cent of the asserted rental value for each item of plant and machinery.

129. Transkomplekt also asserted that its monthly productivity decreased between August 1990 and January 1991 from IQD 546,904 to IQD 124,024, resulting in loss of productivity of IQD 422,880 per month. It calculated monthly productivity by dividing the total value of construction works by 52, being the number of months over which it alleged the contract had been ongoing. Transkomplekt calculated its alleged losses by assessing loss of profits at 7.5 per cent of lost productivity for 4 months, i.e., from September to December 1990, which amounted to IQD 126,864 (USD 407,100).

2. Analysis and valuation

130. In its previous reports, the Panel has held that claimants must provide evidence that establishes with reasonable certainty ongoing and expected profitability to support a claim for loss of profits. In the

absence of such evidence, the Panel will not recommend compensation for loss of profits.

131. Transkomplekt provided a list of machinery, which contains details of the quantity of each type of machinery and the achievable monthly rental charge as evidence of its alleged loss of rental income. The list is not supported by any documentary evidence.

132. Transkomplekt provided as evidence of its alleged loss of productivity an analysis that compares the four months for which the losses are claimed with the preceding 52 months of the contract. However, Transkomplekt failed to provide documentary evidence in support of the asserted profit margin.

133. The Panel recommends no compensation as Transkomplekt has failed to provide with respect to each loss evidence that establishes with reasonable certainty ongoing and expected profitability.

3. Recommendation

134. The Panel recommends no compensation for loss of profits.

F. Other losses

1. Facts and contentions

135. Transkomplekt seeks compensation for the cost of rents (IQD 42,557), salaries (USD 159,957), security at the project site (IQD 135,000), insurance against war risk for its employees (USD 15,176), Resident Engineer office support costs (IQD 30,000), lawyers fees (IQD 2,565) and the cost of preparing a claim to the Employer (IQD 50,000).

(a) Rents

136. Transkomplekt seeks compensation of IQD 33,657 for the alleged cost of one year's rent for its camp and workshop at Shomeli. Transkomplekt alleged a loss on the basis that it was obliged to pay rent for three years after the anticipated completion date of July 1992. However, it seeks compensation for only one year's rent.

137. Transkomplekt also seeks compensation of IQD 4,400 for rent allegedly paid in 1991 in respect of four other sites and IQD 4,500 in respect of an advance on another quarry, which it was unable to use.

138. Transkomplekt did not provide a copy of any of the relevant lease agreements or evidence of payment of rent.

(b) Salaries

139. Transkomplekt seeks compensation of USD 159,957 for salaries it allegedly paid to 11 employees in 1991 as well as to four staff in the office of the Resident Engineer.

140. Transkomplekt provided copies of contracts for only five of the 11 employees. Moreover, it did not provide proof of payment of any of the alleged salaries.

(c) Security costs

141. Transkomplekt seeks compensation of IQD 135,000 for the cost of hiring a security guard to protect the project site over a period of nine months. Transkomplekt entered into a contract with the security guard dated 14 January 1991 for the protection of the camp over a period of five months. The evidence provided by Transkomplekt suggests that Transkomplekt extended its contract with the security guard to 15 July 1991. The only evidence that the contract was extended for another three months was the written testimony of Transkomplekt's accountant that he prepared accounts for payment of security costs of IQD 135,000, which would be the total amount due for nine months work.

142. Transkomplekt provided a copy of the contract with the security guard and a letter regarding extension of the contract, but did not provide further evidence of payment.

(d) War risk insurance

143. Transkomplekt seeks compensation of USD 15,176 for the alleged cost of the premiums for war risk insurance, which Transkomplekt stated it obtained for 300 of its employees from 17 September to 31 December 1990. Transkomplekt provided a copy of an invoice for a premium for the relevant period and a payment order dated 5 December 1990. However, Transkomplekt failed to provide a copy of the insurance policy, to explain the nature of the insurance or to identify the employees it allegedly insured. Transkomplekt also failed to demonstrate that such expenditures were temporary and extraordinary in nature.

(e) Resident Engineer office support costs

144. Transkomplekt seeks compensation of IQD 30,000 for the cost of supporting the office of the Resident Engineer in 1991. It did not explain how such costs resulted from Iraq's invasion and occupation of Kuwait and did not to provide any evidence of payment of the alleged expenses.

(f) Lawyer's expenses

145. Transkomplekt seeks compensation of IQD 2,565 in respect of expenses incurred in retaining a lawyer to deal with issues and disputes arising in connection with the contract. Transkomplekt did not explain how these expenses were incurred as a direct result of Iraq's invasion and occupation of Kuwait nor did it provide any evidence of payment of the alleged expenses.

(g) Claim preparation costs

146. Transkomplekt seeks compensation of IQD 50,000 for the alleged cost of preparing a separate claim, which it allegedly submitted to the Employer on 16 July 1991. Transkomplekt did not provide details or evidence of the asserted claim preparation costs.

2. Analysis and valuation

147. Transkomplekt provided, in addition to the evidence noted above, an affidavit of its chief accountant on site, which stated that the balance sheet for 1991 included accruals of the alleged expenses.

148. The Panel recommends no compensation for financial losses as Transkomplekt has failed to provide sufficient evidence of its alleged losses.

3. Recommendation

149. The Panel recommends no compensation for financial losses.

G. Interest

150. As the Panel recommends no compensation for contract losses, there is no need for the Panel to determine the date of loss from which interest would accrue.

H. Recommendation for Transkomplekt

Table 6. RECOMMENDED COMPENSATION FOR TRANSKOMPLEKT

Claim element	Claim amount (USD)	Recommended compensation (USD)
Contract losses	3,276,657	nil
Real property losses	3,016,356	nil
Loss of tangible property	37,286,409	nil
Payment or relief to others	94,400	4,566
Loss of profits	14,447,100	nil
Other losses	1,009,835	nil
Interest	1,537,607	nil
TOTAL	60,668,364	4,566

151. Based on its findings regarding Transkomplekt's claim, the Panel recommends compensation in the amount of USD 4,566.

VI. CLAIM OF INGRA

152. Ingra d.d. ("Ingra") is a Croatian engineering and construction corporation. Ingra seeks compensation of USD 52,218,463 for contract losses, loss of tangible property, loss of profits, other losses and interest.

153. The Panel notes, however, that the correct total claim amount as detailed in the table below, amounts to USD 52,209,617.

Table 7. INGRA'S CLAIM

Claim element	Claim amount (USD)
Contract losses	41,341,786
Loss of tangible property	2,500,000
Loss of profits	659,534
Other losses	126,400
Interest	7,581,897
TOTAL	52,209,617

A. Contract losses

1. Facts and contentions

(a) Substations contract

154. Ingra entered into a contract on 12 April 1988 with the State Establishment of Baghdad Electricity Distribution (the "Employer") for the manufacture and delivery of electrical equipment and spare parts for twenty three substations. The value of the contract was USD 12,745,868.

155. Ingra stated that it delivered electrical equipment and spare parts for a number of substations to Iraq between December 1989 and May 1990. The value of the deliveries was USD 5,695,093. According to the contract, 15 per cent was to be paid by a letter of credit by July 1990 and the remaining 85 per cent was to be paid through a credit scheme afforded to the Employer by Ingra pursuant to a deferred payments agreement between Iraq and the former Yugoslavia (the "credit portion").

156. Ingra asserted that the Employer failed to discharge the credit portion as a result of Iraq's invasion and occupation of Kuwait. Ingra seeks compensation of USD 4,840,829 for losses arising in connection with the alleged failure of the Employer to discharge the credit portion.

157. Ingra also asserted that it was impossible to make any further deliveries to Iraq as a result of Iraq's invasion and occupation of Kuwait.

Ingra stated that it retained the undelivered equipment at the manufacturer's warehouse from 2 August 1990 to 31 December 1993. Following this period, Ingra sold part of the undelivered equipment worth USD 1,488,728 or used it for other projects. Ingra asserted that the remaining equipment, worth USD 455,436, is still stored in the manufacturer's warehouse. Ingra seeks compensation of USD 455,436 in respect of the equipment that it alleged it was unable to deliver.

(b) Hemren Dam contract

158. Ingra stated that it was a nominated subcontractor to Hidrogradnja for the Hemren Dam project. Ingra did not provide a copy of the contract, but it would appear to have signed the contract in or around 1976. According to Ingra, the contract works were completed in 1981, but the Final Acceptance Certificate for the project was not issued until 1985.

159. Ingra asserted that the amount of USD 878,666 is due under the contract to Ingra and two other entities from Slovenia, Metalna Co. and Litostroj. This amount represented the retention money due under the contract. Ingra asserted that its share of the retention money amounts to USD 303,056.

160. The claimed amount was the subject of a deferred payments agreement between Iraq and the former Yugoslavia. The debt was rescheduled a number of times with the last such arrangement coming into effect in October 1990.

161. Ingra also seeks compensation of USD 303,056 for alleged loss of retention money withheld under the contract.

(c) Oil complex contract

162. Ingra entered into a contract on 25 January 1981 with the Ministry for Housing and Construction (the "Employer") for the turnkey construction of an oil complex project in Baghdad. The value of the contract was IQD 37,750,000.

163. The contract works were completed in 1989. The Employer signed the Provisional Completion Certificate on 15 July 1989 from which the maintenance period was to run for 18 months until 15 January 1991. Ingra asserted that it was prevented from completing the maintenance period as a result of Iraq's invasion and occupation of Kuwait.

164. Payments under the contract were deferred under a deferred payments agreement between Iraq and the former Yugoslavia.

165. Ingra seeks compensation for contract losses of USD 11,271,233 for allegedly unpaid work performed before 15 July 1989, USD 2,021,462 for unpaid work carried out after 15 July 1989 and USD 4,764,981 for the alleged loss of retention money.

(d) Haditha Power Station contract

166. Ingra was a nominated subcontractor to Hidrogradnja for the Haditha (Al Quadissiah) Hydroelectric Power Plant. It was involved in the manufacture, supply and installation of hydro-mechanical and electrical equipment for the project. The contract works were divided into six units. The Final Acceptance Certificate for units numbers 1 to 3 was issued on 12 March 1988, the Final Acceptance Certificate for unit number 4 was issued on 25 June 1988 and the Final Acceptance Certificate for unit number 5 was issued on 20 October 1989. The Provisional Acceptance Certificate for unit number 6 was issued on 15 August 1987. Ingra asserted that the issue of the Final Acceptance Certificate for unit number 6 was prevented as result of Iraq's invasion and occupation of Kuwait.

167. Payments under the contract were deferred under a deferred payments agreement between Iraq and the former Yugoslavia.

168. Ingra seeks compensation for contract losses of USD 17,684,789. This amount represents the amount of contract debts "recorded" under the deferred payments agreement of USD 15,492,238 and contract debts of USD 2,192,551, which had not yet been "recorded" under the deferred payments agreement. Ingra stated that the amount of USD 2,192,551 should have been recorded in 1990 "but had not been because of the ongoing war". The alleged losses appear to include a claim for retention money in respect of unit number 5.

2. Analysis and valuation

(a) Substations contract

169. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Ingra had a contract with Iraq.

170. The Panel finds that the invoices for the alleged delivery of equipment and spare parts for substations numbers 5 to 8 relate to the delivery of equipment prior to 2 May 1990. The Panel, therefore, finds that the alleged losses arising in connection therewith represent debts and obligations of Iraq arising prior to 2 August 1990 and are outside the jurisdiction of the Commission.

171. The Panel finds that for the purposes of Security Council resolution 687 (1991) the deferred payments agreement did not have the effect of novating the debt.

172. The Panel recommends no compensation for the alleged losses incurred in connection with the unpaid invoices for the alleged delivery of equipment and spare parts for substations numbers 9 to 12 as Ingra has not submitted sufficient evidence of delivery of the equipment to Iraq.

173. The Panel recommends no compensation for the alleged losses incurred in connection with the undelivered equipment as Ingra has not submitted sufficient evidence in support of its alleged losses.

(b) Hemren Dam contract

174. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Ingra had a contract with Iraq.

175. The Panel finds that the retention money for which Ingra alleged a loss became due to Ingra in 1985.

176. The Panel recommends no compensation as the alleged losses represent debts and obligations of Iraq arising prior to 2 August 1990 and, therefore, are outside the jurisdiction of the Commission.

177. The Panel finds that for the purposes of Security Council resolution 687 (1991) the deferred payments agreement did not have the effect of novating the debt.

(c) Oil complex contract

178. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Ingra had a contract with Iraq.

179. The Panel finds that the work to which the claim for unpaid invoices relates was performed prior to 2 May 1990.

180. The Panel recommends no compensation for losses arising in connection with the unpaid invoices as they relate to work performed prior to 2 May 1990 and, therefore, are outside the jurisdiction of the Commission.

181. The Panel finds that for the purposes of Security Council resolution 687 (1991) the deferred payments agreement did not have the effect of novating the debt.

182. Ingra failed to submit copies of invoices relating to the work or documentary evidence that the Employer had accepted the work, such as Preliminary or Final Completion Certificates, in support of its alleged losses incurred in connection with work performed after 15 July 1989 for which Ingra asserted it was not paid.

183. The Panel recommends no compensation for the alleged losses arising in connection with the work performed after 15 July 1989 as Ingra has not submitted sufficient evidence of its alleged losses.

184. The Panel finds that the portion of the retention money, which amounted to two and one half per cent of the contract value (see reference to the contract value in paragraph 160), due on the issue of the Provisional Completion Certificate on 15 July 1989 constitutes a debt or obligation of Iraq arising prior to 2 August 1990 and, therefore, is outside the jurisdiction of the Commission.

185. The Panel finds that with respect to the remaining portion of the retention money, which amounted to two and one half per cent of the contract value (see reference to the contract value in paragraph 160), due on the issue of the Final Completion Certificate, in the absence of any evidence to the contrary, the Employer failed to issue the Final Acceptance Certificate as a direct result of Iraq's invasion and occupation of Kuwait. The Panel recommends compensation in the amount of USD 3,187,778, which represents the portion of the retention money payable under the contract on the issue of the Final Acceptance Certificate.

(d) Haditha Power Station contract

186. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Ingra had a contract with Iraq.

187. The Panel finds that the work to which the claim for unpaid contract debts "recorded" under the deferred payments agreement was performed prior to 2 May 1990.

188. The Panel recommends no compensation for the alleged losses incurred in connection with such "recorded" amounts as they relate to work performed prior to 2 May 1990 and, therefore, are outside the jurisdiction of the Commission.

189. The Panel finds that for the purposes of the "arising prior to" clause in Security Council resolution 687 (1991) the deferred payments agreement did not have the effect of novating the debt.

190. The Panel recommends that the retention money for unit number 5 included in the "recorded" amounts, comprises a debt or obligation of Iraq arising prior to 2 August 1990 and, therefore, is outside the jurisdiction of the Commission.

191. The Panel recommends no compensation for the "unrecorded" amount as Ingra has not submitted sufficient evidence in support of its alleged losses.

3. Recommendation

192. The Panel recommends compensation in the amount of USD 3,187,778 for contract losses.

B. Loss of tangible property

193. Ingra seeks compensation of USD 2,500,000 for the alleged loss of equipment and cars from the Oil Complex project site.

194. Ingra did not describe the circumstances under which the property was lost and failed to provide more detailed information and documentation despite being requested to do so in a claim development letter.

195. The Panel recommends no compensation as Ingra has not submitted sufficient evidence of its title to or right to use the property.

196. The Panel recommends no compensation for loss of tangible property.

C. Loss of profits

1. Facts and contentions

197. Ingra seeks compensation of USD 659,534 for loss of profits in connection with the Substations contract. Ingra asserted that due to "interrupted payments", it was forced to cancel the manufacture of the rest of the equipment due to be delivered under the contract in the total amount of USD 5,106,611. It also alleged that the value of the equipment it was unable to deliver to Iraq and which it sold or used for other projects without profit was USD 1,488,728. Ingra asserted that it would have earned a profit of 10 per cent on each amount.

2. Analysis and valuation

198. The Panel finds that Ingra's allegation that a profit would have been made is unsupported. Ingra provided no documentary evidence specific to this aspect of its claim despite being requested to do so in a claim development letter.

199. The Panel recommends no compensation for loss of profits as Ingra has not submitted evidence that establishes with reasonable certainty ongoing and expected profitability.

3. Recommendation

200. The Panel recommends no compensation for loss of profits.

D. Other losses

201. Ingra seeks compensation of USD 126,400 for the alleged cost of storing the undelivered equipment under the Substations contract.

202. Ingra failed to provide evidence of payment of the storage costs, such as invoices and receipts, despite being specifically requested to do so.

203. The Panel recommends no compensation for the storage costs as Ingra has not submitted evidence in support of its alleged losses.

204. The Panel recommends no compensation for other losses.

E. Interest

205. With reference to the issue of interest, the Panel refers to paragraphs 18 and 19 of this report.

F. Recommendation for Ingra

Table 8. RECOMMENDED COMPENSATION FOR INGRA

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	41,341,786	3,187,778
Loss of tangible property	2,500,000	nil
Loss of profits	659,534	nil
Other losses	126,400	nil
Interest	7,581,897	nil
TOTAL	52,209,617	3,187,778

206. Based on its findings regarding Ingra's claim, the Panel recommends compensation of USD 3,187,778.

VII. CLAIM OF ABB SCHALTANLAGEN GMBH

207. ABB Schaltanlagen GmbH ("ABB Schaltanlagen") is a private German corporation that is involved in the development, manufacture and marketing of switchgear and related equipment and products. Since submitting its claim to the Commission, ABB Schaltanlagen changed its name to ABB Calor Emag Schaltanlagen AG. ABB Schaltanlagen seeks compensation in the amount of DEM 17,745,251 (USD 11,360,596) for contract losses, loss of tangible property, payment or relief to others, financial losses, other losses and interest. The Panel notes, however, that taking into account the amendments to the claim by ABB Schaltanlagen noted in the following paragraph, the correct claim amount is DEM 17,577,447 (USD 11,253,167).

208. In its original submission, ABB Schaltanlagen claimed compensation for the cost of renovating its Kuwaiti office in the amount of DEM 55,350. It subsequently withdrew this aspect of its claim in a communication received by the Commission on 14 December 1998. ABB Schaltanlagen stated these losses are being claimed instead by one of its associated companies in Kuwait. ABB Schaltanlagen also reduced the amount of rent claimed for its Baghdad office to DEM 38,602 (USD 24,713) and adjusted the amount claimed for payment or relief to others from DEM 355,429 (USD 227,548) to DEM 281,578 (USD 180,268).

Table 9. ABB SCHALTANLAGEN'S CLAIM

Claim element	Claim amount (USD)
Contract losses	5,091,100
Loss of tangible property	757,109
Payment or relief to others	180,268
Financial losses	800,214
Other losses	24,713
Interest	4,399,763
TOTAL	11,253,167

A. Contract losses

1. Facts and contentions

209. ABB Schaltanlagen seeks compensation of DEM 7,952,298 (USD 5,091,100) for losses arising in connection with four contracts, namely, Contract numbers 631 160, 631 209, 634 022 and 631 159.

210. ABB Schaltanlagen entered into Contract number 631 160 on 7 June 1981 with the Iraqi Ministry of Industry and Minerals, State Organization of Electricity (the "Employer") for the supply and construction of a number of

132 Kv substations in Iraq. The Employer issued the Final Acceptance Certificate for the substations on 18 October 1987.

211. ABB Schaltanlagen entered into Contract number 631 209 on 14 October 1981 with the Iraqi Ministry of Industry and Minerals, State Organization of Electricity (the "Employer") for the construction of a 132 Kv substation in Shargat, Iraq. The Employer issued the Final Acceptance Certificate for the substation on 31 August 1987. ABB Schaltanlagen seeks compensation in respect of 10 per cent of the Deutsche mark portion payable against the Final Acceptance Certificate, which it asserted the Employer failed to pay.

212. ABB Schaltanlagen entered into Contract number 634 022 on 25 April 1979 with a joint venture partner, Elektrim Co. Ltd., a Polish corporation, and the Iraqi State Organization for Oil Projects (the "Employer") for the supply and construction of electrical substations for the LPG South Project in Iraq. The parties signed a supplemental agreement on 22 May 1986 for the execution of ancillary works. The Employer issued the Final Acceptance Certificate for the substations on 15 December 1988.

213. On 20 June 1981, Toshiba Corporation ("Toshiba"), a joint venture partner of ABB Schaltanlagen, entered into Contract number 631 159 with the Iraqi Ministry of Irrigation, State Organization of Dams (the "Employer") for the construction of the Saddam (or Mosul) Dam, unit number 1. ABB Schaltanlagen signed an "Agreement for Internal Consortium" with Toshiba in September or October 1980 (the "consortium agreement"), whereby ABB Schaltanlagen and Toshiba agreed to carry out the contract works as equal partners. Under the consortium agreement, Toshiba was to act as the consortium leader.

214. The Employer issued Final Acceptance Certificates on 14 April 1988, 15 October 1988 and 24 January 1990. However, according to the minutes of a meeting held between representatives of Toshiba, ABB Schaltanlagen and the Employer on 19 December 1989, it was agreed that the Employer was entitled to withhold contract amounts in respect of various works that ABB Schaltanlagen and Toshiba had not yet completed. The parties agreed on a list of works, a so-called "Commitments List", which ABB Schaltanlagen and Toshiba were obliged to complete before they were permitted to apply for payment of the withheld amount.

215. ABB Schaltanlagen asserted that it had completed most of the items on the "Commitments List" by July 1990 and that the only remaining item was the shipment of some voltage transformers that were scheduled for delivery in August 1990. ABB Schaltanlagen stated that due to Iraq's invasion and occupation of Kuwait, it was unable to complete the delivery and, therefore, execute all of its obligations in order to obtain payment of the outstanding amounts owed to it. ABB Schaltanlagen seeks compensation in respect of the Japanese yen and Iraqi dinar amounts due to be released to ABB Schaltanlagen on completion of all items noted in the "Commitments List" less the amount of compensation received from Hermes Kreditversicherungs-AG ("Hermes"), the

German export credit insurance corporation, in Deutsche mark in respect of such losses.

2. Analysis and valuation

216. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) ABB Schaltanlagen had, with respect to Contract numbers 631 160, 631 209 and 634 022, a contract with Iraq.

217. The Panel finds that the work under Contract numbers 631 160, 631 209 and 634 022 was performed prior to 2 May 1990 as the Final Acceptance Certificates were issued in 1987 and 1988.

218. The Panel recommends no compensation for losses incurred under contract numbers 631 160, 631 209 and 634 022 as they relate to work performed and services rendered prior to 2 May 1990 and, therefore, are outside the jurisdiction of the Commission.

219. Based on the terms of the consortium agreement and the assertion by ABB Schaltanlagen that it was a "nominated sub-contractor" holding "an own and legal valid payment claim" against the Employer, the Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) ABB Schaltanlagen had, with respect to Contract number 631 159, a contract with Iraq.

220. The Panel finds that all of the work performed under Contract number 631 159, with the exception of the work performed in connection with the "Commitments List", was performed prior to 2 May 1990. The Panel, therefore, recommends no compensation for contract losses under contract number 631 159, except for the losses relating to the work performed in connection with the "Commitments List", as they are outside the jurisdiction of the Commission.

221. With respect to the losses asserted by ABB Schaltanlagen in connection with the work performed under the "Commitments List", the Panel finds that full performance by ABB Schaltanlagen of its obligations under the "Commitments List" was prevented as a direct result of Iraq's invasion and occupation of Kuwait.

222. The Panel recommends compensation of USD 155,049, which represents the the Japenese yen and Iraqi dinar amounts that would have been released by the Employer to ABB Schaltanlagen on completion by ABB Schaltanlagen of its obligations under the "Commitments List" less the amount of compensation received from Hermes in respect of such losses. The amount of USD 155,049 is calculated by converting the Japanese yen and Iraqi dinar amounts to Deutsch mark using the exchange rate set forth in the contract, and converting the Deutsch mark amounts to United States dollars at the

prevailing commercial rate, as evidenced by the United Nations Monthly Statistics, on 2 August 1990, as follows:

Amounts due on completion of "Commitments List"	JPY	IQD	DEM	USD equivalent
Japanese yen amount	58,455,276			382,999
Iraqi dinar amount		4,258		19,623
Subtotal				402,622
Less compensation received from Hermes			(386,710)	(247,573)
TOTAL				155,049

3. Recommendation

223. The Panel recommends compensation in the amount of USD 155,049 for contract losses.

B. Loss of tangible property

1. Facts and contentions

224. ABB Schaltanlagen seeks compensation in the amounts of DEM 671,556 for the alleged loss of machinery and equipment from its Kuwaiti sites, DEM 323,328 for the alleged loss of machinery and equipment from its Iraqi sites and DEM 187,720 for the alleged loss of equipment from its office and storehouse in Baghdad.

225. ABB Schaltanlagen asserted that its Kuwaiti office was devastated by Iraqi troops due to its strategic position and all the equipment located at the office was stolen or destroyed. ABB Schaltanlagen stated that all goods on its Kuwaiti project sites were also stolen or destroyed. Finally, ABB Schaltanlagen alleged that its employees' apartments were plundered and broken up and their goods stolen.

226. ABB Schaltanlagen stated that all of the equipment at its office and store in Baghdad was expropriated by the Iraqi authorities. It also asserted the theft or expropriation of goods from its Iraqi sites. ABB Schaltanlagen alleged that in any event the goods would be of no value due to non-use over a period of years.

2. Analysis and valuation

227. ABB Schaltanlagen provided inventory lists of the assets located on its Kuwaiti and Iraq project sites that were allegedly lost as evidence of its alleged losses.

228. ABB Schaltanlagen failed to submit documentary evidence such as certificates of title, receipts, purchase invoices, bills of lading, insurance documents, customs records, asset registers, hire purchase or lease agreements, transportation documents and other relevant documents generated prior to 2 August 1990, despite being requested to do so in a claim development letter. ABB Schaltanlagen asserted that it is unable to provide this documentation because it was located in its Iraqi and Kuwaiti offices.

229. The Panel recommends no compensation as ABB Schaltanlagen has failed to provide sufficient proof of its title to or right to use the plant and equipment.

3. Recommendation

230. The Panel recommends no compensation for loss of tangible property.

C. Payment or relief to others

1. Facts and contentions

231. ABB Schaltanlagen submitted a claim for DEM 77,485 for the cost of salaries paid to three of its European employees during their detention in Iraq until November 1990.

232. ABB Schaltanlagen also seeks compensation of DEM 109,168 for payment of salaries to local personnel in Iraq. ABB Schaltanlagen asserted that under Iraqi law it was obliged to retain an Iraqi legal advisor and book keeper.

233. ABB Schaltanlagen seeks compensation of DEM 33,402 for payment of salaries to its Kuwaiti staff.

234. ABB Schaltanlagen had sought compensation for the cost of indemnities and loyalty premiums of DEM 37,152, but it withdrew this aspect of its claim in its reply to a claim development letter.

235. ABB Schaltanlagen seeks compensation of DEM 20,660 for compensation it allegedly paid to its Kuwaiti employees for loss of personal belongings and DEM 17,328 for the cost of accommodation and food for some its European employees. ABB Schaltanlagen also seeks compensation in the amount of DEM 18,861 for the alleged cost of international telephone calls between its European employees and their families.

236. Finally, ABB Schaltanlagen seeks compensation in the amount of DEM 4,674 for the alleged cost of flying its European employees out of Iraq.

2. Analysis and valuation

237. With respect to the alleged payment of salaries to its European personnel and Kuwaiti employees, the Panel finds that ABB Schaltanlagen did not submit evidence of actual payment.

238. ABB Schaltanlagen acknowledged with respect to its Iraqi employees in its reply to a claim development letter that it has not paid those salaries, but expected that it would have to pay the outstanding salaries on returning to Iraq when "conditions there return to normal".

239. ABB Schaltanlagen acknowledged with respect to the alleged evacuation costs in its reply to a claim development letter that the cost of the air fares did not exceed the cost that it would have normally incurred on repatriating its employees on termination of the contract.

240. The Panel recommends no compensation for the alleged losses relating to payment or relief to others as ABB Schaltanlagen has failed to provide sufficient evidence in support of its alleged losses.

3. Recommendation

241. The Panel recommends no compensation for losses relating to payment or relief to others.

D. Financial losses

1. Facts and contentions

(a) Iraqi bank account

242. ABB Schaltanlagen seeks compensation of DEM 1,039,193 for the alleged loss of account number 5358 with the Rafidian bank in Iraq. The monies in the account were used to cover the running costs of the Baghdad office and to cover project costs. ABB Schaltanlagen alleged that the account was expropriated by the Iraqi authorities.

(b) Cash on site in Iraq and Kuwait

243. ABB Schaltanlagen seeks compensation of DEM 48,611 for the alleged loss of cash on site in Kuwait and Iraq. It asserted that the contents of its safe in Iraq, comprising USD 3,055 and IQD 7,340, were expropriated by the Iraqi authorities on 3 February 1993.

244. ABB Schaltanlagen alleged that its safe in Kuwait was broken open during Iraq's invasion and occupation of Kuwait and its contents in the amount of KWD 1076 were stolen.

(c) Penalty fees

245. ABB Schaltanlagen seeks compensation of DEM 162,130 for penalty fees, which, it alleged, were payable in respect of the delayed presentation of its balance sheets to the relevant Iraqi authorities. However, in its reply to a claim development letter, ABB Schaltanlagen acknowledged that it has not actually incurred the cost of penalty fees, but it expected to do so when "business returned to normal" in Iraq.

2. Analysis and valuation

(a) Iraqi bank account

246. ABB Schaltanlagen submitted a copy of a bank statement and a document it described as a "bank reconciliation", both of which show a balance of IQD 189,645. ABB Schaltanlagen also submitted translated copies of bank statements that show that the account was in existence on 30 September 1990 and 24 August 1991.

247. ABB Schaltanlagen acknowledged that the funds held in the account were intended only for local use and "were not transferable at all".

248. The Panel recommends no compensation for losses related to the Iraqi bank account as ABB Schaltanlagen has failed to establish that it incurred a compensable loss.

(b) Cash on site in Iraq and Kuwait

249. The Panel recommends no compensation for the alleged loss of cash from ABB Schaltanlagen's site in Iraq as ABB Schaltanlagen has failed to prove that the alleged loss of the cash was a direct result of Iraq's invasion and occupation of Kuwait.

250. The Panel recommends no compensation for the alleged loss of cash from its site in Kuwait as ABB Schaltanlagen has failed to provide sufficient evidence in support of its alleged loss.

(c) Penalty fees

251. The Panel recommends no compensation of the claim for penalty fees as ABB Schaltanlagen has acknowledged that it has not paid the alleged penalty fees.

3. Recommendation

252. The Panel recommends no compensation for losses relating to financial losses.

E. Other losses

1. Facts and contentions

253. ABB Schaltanlagen seeks compensation of DEM 38,602 in respect of rental costs for its Baghdad office.

254. ABB Schaltanlagen stated that the Iraqi authorities occupied its office in Baghdad in April 1992. ABB Schaltanlagen was allegedly unable to use its office from August 1990 to April 1992. ABB Schaltanlagen acknowledged that it did not pay rent for that period nor did it receive any demands for rent, but stated that it expected that it would be required to pay rent when "business returned to normal" in Iraq.

2. Analysis and valuation

255. The Panel recommends no compensation for the alleged losses as ABB Schaltanlagen has acknowledged that it did not incur the claimed rental costs.

3. Recommendation

256. The Panel recommends no compensation for other losses.

F. Interest

257. With reference to the issue of interest, the Panel refers to paragraphs 18 and 19 of this report.

G. Recommendation for ABB Schaltanlagen

Table 10. RECOMMENDED COMPENSATION FOR ABB SCHALTANLAGEN

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	5,091,100	155,049
Loss of tangible property	757,109	nil
Payment or relief to others	180,268	nil
Financial losses	800,214	nil
Other losses	24,713	nil
Interest	4,399,763	nil
TOTAL	11,253,167	155,049

258. Based on its findings regarding ABB Schaltanlagen's claim, the Panel recommends compensation in the amount of USD 155,049.

VIII. CLAIM OF ASEA BROWN BOVERI AG

259. Asea Brown Boveri AG ("ABB") is a German public limited liability company. ABB seeks compensation of DEM 44,743,614 (USD 28,645,079) by way of a "Subsidiary Motion".

Table 11. ABB'S CLAIM

Claim element	Claim amount (USD)
"Subsidiary Motion"	28,645,079
TOTAL	28,645,079

A. "Subsidiary Motion"

1. Facts and contentions

260. ABB seeks compensation of DEM 44,743,614 by way of "Subsidiary Motion" in respect of amounts paid to AKA Ausfuhrkredit-Gesellschaft mbH ("AKA") under a loan agreement dated 5 May 1985 (the "loan agreement").

261. The loan agreement refinanced the payments under a contract (the "contract") dated 20 June 1981 between the Ministry of Irrigation of the Republic of Iraq, State Organization of Dams (the "Employer") and Toshiba Corporation. Toshiba Corporation signed the contract as leader of a consortium comprising Toshiba Corporation and ABB Schaltanlagen. The contract is one of the contracts, Contract number 631 159, in connection with which ABB Schaltanlagen, whose claim is considered earlier in this report, seeks compensation for contract losses.

262. ABB asserted that the Employer failed to meet the maturity dates for repayment of the loan. AKA called on ABB to reimburse it for amounts due under the loan agreement, which ABB had pledged to pay AKA pursuant to an exporter's guarantee. ABB asserted that it paid AKA the amount of DEM 44,743,614.

263. AKA has submitted a claim to this Commission for the losses it incurred in connection with the loan agreement notwithstanding that it has been reimbursed by the German export credit agency, Hermes Kreditversicherungs AG and ABB for such losses.

264. ABB asserted that if AKA's claim should be "rejected" it submitted a "Subsidiary Motion" for the losses incurred by ABB in this respect.

2. Analysis and valuation

265. The Panel finds that it does not have jurisdiction over such contingent claims. In addition, the Panel finds that ABB has not incurred a loss as the "Subsidiary Motion" is merely contingent upon another claim and, therefore, ABB's claim in this respect is not compensable.

3. Recommendation

266. The Panel recommends no compensation for the "Subsidiary Motion".

B. Interest

267. As the Panel recommends no compensation for "Subsidiary Motion", there is no need for the Panel to determine the date of loss from which interest would accrue.

C. Recommendation for ABB

Table 12. RECOMMENDED COMPENSATION FOR ABB

Claim element	Claim amount (USD)	Recommended Compensation (USD)
"Subsidiary Motion"	28,645,079	nil
TOTAL	28,645,079	nil

268. Based on its findings regarding ABB's claim, the Panel recommends no compensation.

IX. CLAIM OF HOCHTIEF AKTIENGESELLSCHAFT VORM. GEBR. HELFMANN

269. Hochtief Aktiengesellschaft vorm. Gebr. Helfmann ("Hochtief"), a German engineering and construction company, is a partner in a German-Italian construction joint venture, GIMOD J.V. (the "joint venture"). The joint venture consists of three German partners, Hochtief, Ed. Zublin AG, Dr.-Ing Trapp & Co. Construction GmbH and two Italian partners, Impresit Girola Lodigiani (IMPREGILO) S.p.A. and Italstrade S.p.A.. The German joint venture partners own 60 per cent of the joint venture and the Italian partners own the remaining 40 per cent.

270. Hochtief seeks compensation of DEM 532,647,693 (USD 341,003,645) on behalf of the German partners in the joint venture for their share of contract losses, financial losses and interest allegedly incurred by the joint venture. The Italian partners, Italstrade S.p.A. and Impresit Girola Lodigiani (IMPREGILO) S.p.A. originally claimed for their share of contract losses and financial losses allegedly incurred by the joint venture. However, the Commission subsequently received a notice of withdrawal of the claims by Italstrade S.p.A. and Impresit Girola Lodigiani (IMPREGILO) S.p.A. from the Government of Italy.

271. Hochtief also seeks compensation in the amount of DEM 357,398,912 (USD 228,808,522) for a "Subsidiary Motion" on behalf of the German partners in the joint venture.

Table 13. HOCHTIEF'S CLAIM

Claim element	Claim amount (USD)
Contract losses	198,558,155
"Subsidiary Motion"	228,808,522
Iraqi bank accounts	9,229,359
Interest	133,216,131
TOTAL	569,812,167

A. Contract losses and "Subsidiary Motion"

1. Facts and contentions

(a) Contract losses

272. On 25 January 1981, the joint venture signed a contract (the "contract") with the Ministry of Irrigation, State Organization of Dams (the "Employer") for the construction of the civil works of the Mosul Dam (later called the "Saddam Dam") in the northern part of Iraq in the vicinity of Mosul. The contract related to the construction of civil works, including hydraulic steel structures. The total contract price was IQD 485,000,000.

273. Hochtief seeks compensation for two separate alleged losses arising out of the contract. The first alleged loss in the amounts of DEM 186,304,788, DEM 90,000,000 and DEM 15,000,000 relates to various amounts at dispute between the joint venture and the Employer (the "disputed amounts"). The second alleged loss of DEM 18,843,050 relates to a number of Progress Payment Applications due, but allegedly not paid by the Employer less the amounts of compensation received from the German export credit agency, Hermes Kreditversicherungs AG ("Hermes") and from the execution of a court award.

(b) "Subsidiary Motion"

274. Hermes compensated AKA Ausfuhrkredit-Gesellschaft mbH ("AKA") for part of its losses arising out of a loan agreement, which refinanced the contract payments, and the joint venture paid AKA the amount of DEM 357,398,912 under the exporter's guarantee. Although it received payment, AKA sought compensation from this Commission separately for the losses arising out of the loan. Hochtief seeks compensation of DEM 357,398,912 on behalf on the German partners in the joint venture if the separate claim filed by AKA is not recommended for compensation by this Commission.

2. Analysis and valuation

(a) Contract losses

275. Hochtief seeks compensation of DEM 310,147,838 for contract losses. The amount of the contract losses represents the total of the disputed amounts and the amount of the unpaid Progress Payment Applications.

276. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) the joint venture had a contract with Iraq.

277. The Panel finds that the claim for the disputed amounts and the claim for the unpaid Progress Payment Applications both relate to work performed prior to 2 May 1990. The Panel, therefore, finds the claim for contract losses is outside the jurisdiction of the Commission and is not compensable.

278. The Panel finds that for the purposes of Security Council resolution 687 (1991) the loan agreement did not have the effect of novating the debts.

(b) "Subsidiary Motion"

279. The Panel finds that it does not have jurisdiction over contingent claims. In addition, the Panel finds that the joint venture has not incurred a loss as the "Subsidiary Motion" is merely contingent upon another claim and, therefore, Hochtief's claim in this respect is not compensable.

3. Recommendation

280. The Panel recommends no compensation for contract losses and the "Subsidiary Motion".

B. Iraqi bank accounts

1. Facts and contentions

281. Hochtief seeks compensation in the amount of DEM 14,416,259 on behalf of the German partners for their share of the joint venture's bank accounts with the Rafidain Bank in Baghdad (the "Baghdad account") and the Rasheed Bank in Mosul (the "Mosul account").

282. The joint venture used the Baghdad account to receive all payments made by the Employer in Iraqi dinar and used the Mosul account to settle all local payments. Hochtief asserted that as the funds in the account resulted "from the import of capital into Iraq" they "were foreseen to be repatriated to GIMOD's bank account in Germany".

283. Hochtief asserted that the accounts were either confiscated or "blocked" by the Iraqi authorities as a consequence of the trade embargo imposed against Iraq. Hochtief asserted that it "tried via court cases by our local lawyer to remove seizure of our accounts without success".

2. Analysis and valuation

284. Hochtief submitted no documentary evidence to support its assertion that the accounts were confiscated or "blocked" or that it attempted to remove seizure of the accounts.

285. The Panel recommends no compensation as Hochtief failed to demonstrate how the asserted losses were a direct result of Iraq's invasion and occupation of Kuwait.

3. Recommendation

286. The Panel recommends no compensation for the alleged loss of the Iraqi bank accounts.

C. Interest

287. As the Panel recommends no compensation for contract losses, there is no need for the Panel to determine the date of loss from which interest would accrue.

D. Recommendation for Hochtief

Table 14. RECOMMENDED COMPENSATION FOR HOCHTIEF

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	198,558,155	nil
"Subsidiary Motion"	228,808,522	nil
Iraqi bank accounts	9,229,359	nil
Interest	133,216,131	nil
TOTAL	569,812,167	nil

288. Based on its findings regarding Hochtief's claim, the Panel recommends no compensation.

X. CLAIM OF HEILIT & WOERNER BAU AG

289. Heilit & Woerner Bau AG ("Heilit & Woerner"), a German construction company, sought compensation in the amount of DEM 99,092,257 (USD 63,439,345) in its original claim. It subsequently revised its claim amount to DEM 124,801,303 (USD 79,898,401) comprising the amounts of DEM 454,343 (USD 290,873) for contract losses and interest, and DEM 124,346,960 (USD 79,607,528) by way of a "Subsidiary Motion".

Table 15. HEILIT & WOERNER'S CLAIM

Claim element	Claim amount (USD)
Contract losses	126,209
"Subsidiary Motion"	79,607,528
Interest	164,664
TOTAL	79,898,401

A. Contract losses and "Subsidiary Motion"

1. Facts and contentions

(a) Contract losses

290. Heilit & Woerner entered into a contract dated 20 August 1981 with the Amanat Al Asima (the "Employer") for the construction of the Haifa Street Development Project. It also entered into a contract dated 14 September 1981 with the Employer for the construction of the Abi Nawas Development Project. Both projects involved the construction of residential housing in the city of Baghdad. The value of the Haifa Street contract was IQD 31,683,200 and the value of the Abi Niwas contract was IQD 27,722,103.

291. Heilit & Woerner substantially completed work on both projects by 1986. Maintenance Certificates for the Abu Nawas project were issued in March 1987 and October 1988. A Maintenance Certificate for the Haifa Street Development was issued in December 1987. Heilit & Woerner submitted final accounts for both projects to the Employer in February 1988.

292. Contract payments were originally intended to be made in cash, but less than two years after the contracts were signed the Employer was afforded credit facilities pursuant to a loan agreement that covered both projects and another project.

293. Heilit & Woerner asserted that its contract losses resulted from Iraq's invasion and occupation of Kuwait as it prevented Heilit & Woerner from obtaining all necessary approvals from Iraqi state agencies and interrupted repayments by Iraq under the loan agreement.

(b) "Subsidiary Motion"

294. In addition to its claims for contract losses, Heilit & Woerner submitted a "Subsidiary Motion", which is a contingent claim for compensation for the amount paid by Heilit & Woerner to AKA Ausfuhrkredit-Gesellschaft mbH ("AKA"). AKA submitted a claim for its losses even though it has been compensated by Hochtief as well as by the German export credit insurance corporation, Hermes Kreditversicherungs-AG ("Hermes"). Heilit & Woerner stated that if for any reason AKA's claim is not recommended for compensation, it wished to submit a claim for compensation in the amount of DEM 124,346,959 in respect of the amount paid to AKA under the exporter's guarantee.

2. Analysis and valuation

(a) Contract losses

295. Heilit & Woerner seeks compensation of DEM 197,138 for contract losses. The amount of the contract losses represents the total amount due under both contracts and the loan agreement less the amount of compensation received from Hermes.

296. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Heilit & Woerner had a contract with Iraq.

297. The Panel finds that the claim for contract losses is based on the performance of work prior to 2 May 1990 and, therefore, is outside the jurisdiction of the Commission.

298. The Panel finds that for the purposes of Security Council resolution 687 (1991) the loan agreement did not have the effect of novating the debt.

(b) "Subsidiary Motion"

299. The Panel finds that it does not have jurisdiction over contingent claims. In addition, the Panel finds that Heilit & Woerner has not incurred a loss as its "Subsidiary Motion" is merely contingent upon another claim and, therefore, the claim of Heilit & Woerner in this respect is not compensable.

3. Recommendation

300. The Panel recommends no compensation for contract losses and the "Subsidiary Motion".

B. Interest

301. As the Panel recommends no compensation for contract losses and the "Subsidiary Motion", there is no need for the Panel to determine the date of loss from which interest would accrue.

C. Recommendation for Heilit & Woerner

Table 16. RECOMMENDED COMPENSATION FOR HEILIT & WOERNER

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	126,209	nil
"Subsidiary Motion"	79,607,528	nil
Interest	164,664	nil
TOTAL	79,898,401	nil

302. Based on the its findings regarding the claim of Heilit & Woerner, the Panel recommends no compensation.

XI. CLAIM OF STRABAG AG

303. Strabag AG ("Strabag"), a German construction company, is a partner in a joint venture with an Austrian company, Universale-Bau AG (the "joint venture"). Strabag owns a 80 per cent share in the joint venture and Universale-Bau AG owns the remaining 20 per cent. The joint venture had originally included a Germany company, Polensky & Zollner. Polensky & Zollner went into bankruptcy in 1987. Strabag and Universale-Bau AG signed an Addendum to the joint venture agreement, which eliminated Polensky & Zollner from the joint venture and assigned its share of the joint venture to Strabag.

304. Strabag seeks compensation of USD 2,481,397 on behalf of the joint venture for contract losses and interest. Strabag also seeks compensation on behalf of the joint venture in the amount of USD 119,637,187 by way of a "Subsidiary Motion".

305. In its original claim, Strabag sought compensation in the amount of DEM 153,112,520 (USD 94,543,081) and subsequently revised its claim to DEM 197,771,048 (USD 122,118,584).

Table 17. STRABAG'S CLAIM

Claim element	Claim amount (USD)
Contract losses	1,420,891
"Subsidiary Motion"	119,637,187
Interest	1,060,506
TOTAL	122,118,584

A. Contract losses and "Subsidiary Motion"

1. Facts and contentions

(a) Contract losses

306. On 12 March 1981, the joint venture signed a contract with the Iraqi Ministry of Housing and Construction, State Corporation of Roads and Bridges (the "Employer") for the construction of Expressway No. 1, Lot 11, which comprised a 137 km freeway from Tuhala to Rutba in Iraq (the "project").

307. The contract provided for a completion time of 36 months, which was later extended by agreement between the parties to 3 May 1987. The Certificate of Completion was issued on 18 July 1987 with retroactive effect to 3 May 1987. The Maintenance Certificate was issued on 4 August 1988 with retroactive effect to 3 May 1988.

308. On 12 September 1988, the Employer and the joint venture concluded a "Protocol of Understanding", which recorded debts owed to the joint venture of IQD 98,331,902 under the contract and IQD 4,885,000 in respect of increased costs and claims. The Protocol resulted from negotiations regarding outstanding issues between the joint venture and the Employer following the issue of the Maintenance Certificate.

309. Payments under the contract were refinanced under a loan agreement pursuant to which the Employer was obliged, inter alia, to pay a portion of the contract debt in cash to Strabag.

(b) "Subsidiary Motion"

310. In addition to its claims for contract losses, Strabag submitted a "Subsidiary Motion". This is a contingent claim for the amount of the guarantee payments paid by the joint venture to AKA Ausfuhrkredit-Gesellschaft mbH ("AKA"). AKA submitted a claim for its losses arising out of the loan agreement even though it has been compensated by the joint venture as well as by the German export credit insurance corporation, Hermes Kreditversicherungs-AG ("Hermes"). If, for any reason, AKA is not deemed to be the proper claimant for these amounts, Strabag seeks compensation in the amount of DEM 193,752,426 for the amount allegedly paid by the joint venture to AKA. Strabag asserted that as the "Subsidiary Motion" is an alternative claim there is no possibility of double compensation.

2. Analysis and valuation

(a) Contract losses

311. Strabag seeks compensation of DEM 2,301,134 for contract losses. The amount of the contract losses represents the cash portion due under the terms of the loan agreement, which the Employer has allegedly failed to pay to Strabag.

312. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) the joint venture had a contract with Iraq.

313. The Panel finds that the claim for contract losses, although arising from Iraq's alleged breach of the terms of the loan agreement, is based on the performance of work prior to 2 May 1990 and, therefore, is outside the jurisdiction of the Commission.

314. The Panel finds that for the purposes of Security Council resolution 687 (1991) neither the loan agreement nor the "Protocol of Understanding" had the effect of novating the debt.

(b) "Subsidiary Motion"

315. The Panel finds that it does not have jurisdiction over contingent claims. In addition, the Panel finds that Strabag has not incurred a loss as its "Subsidiary Motion" is merely contingent upon another claim and, therefore, Strabag's claim on behalf of the joint venture in this respect is not compensable.

3. Recommendation

316. The Panel recommends no compensation for contract losses and the "Subsidiary Motion".

B. Interest

317. As the Panel recommends no compensation for contract losses and the "Subsidiary Motion", there is no need for the Panel to determine the date of loss from which interest would accrue.

C. Recommendation for Strabag

Table 18. RECOMMENDED COMPENSATION FOR STRABAG

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	1,420,891	nil
"Subsidiary Motion"	119,637,187	nil
Interest	1,060,506	nil
TOTAL	122,118,584	nil

318. Based on the its findings regarding Strabag's claim, the Panel recommends no compensation.

XII. CLAIM OF HINDUSTAN CONSTRUCTION COMPANY LIMITED

319. Hindustan Construction Company Limited ("Hindustan") is an Indian construction company. Hindustan seeks compensation of USD 17,209,851 for contract losses, loss of tangible property, financial losses and interest.

Table 19. HINDUSTAN'S CLAIM

Claim element	Claim amount (USD)
Contract losses	14,154,321
Loss of tangible property	1,903,087
Other losses	152,228
Interest	1,000,215
TOTAL	17,209,851

A. Contract losses

1. Facts and contentions

320. Hindustan seeks compensation in the following amounts:

a. USD 3,374,985 allegedly due under an Indo-Iraq deferred payments agreement in respect of five projects, namely, the Garmat Ali, Daquq Chai, Eight Bridges, Shuiba Maqal and Sadar-al-Majar projects;

b. USD 2,260,458 representing the total of the certified payments and retention monies allegedly due to Hindustan in respect of the Sadar-al-Majar, Eight Bridges, Daquq Chai, Four Bridges, Garmat Ali and Shuiba Maqal projects;

c. USD 924,035 representing a penalty payment allegedly levied against Hindustan in respect of the Shuiba Maqal project; and

d. USD 7,594,843 allegedly owed to Hindustan as "contractual payments due" in respect of the Garmat Ali, Four Bridges, Eight Bridges and Shuiba Maqal projects.

321. The dates on which work on each of the projects was performed is not apparent as Hindustan submitted very little evidence in support of its alleged losses. However, in its description of the alleged loss of equipment in Kuwait, Hindustan stated that it completed its last project in Iraq in 1989.

322. Hindustan did not provide copies of the relevant contracts nor did it specify when the retention monies were payable under each contract. With

respect to the Shuiba Maqal project, it simply stated that the balance of the retention monies was due "on completion".

2. Analysis and valuation

323. The Panel finds that, in the absence of any evidence to the contrary, for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Hindustan had, in each case, a contract with Iraq.

324. The Panel recommends no compensation for contract losses as they constitute debts or obligations arising prior to 2 August 1990 and, therefore, are outside the jurisdiction of the Commission.

325. The Panel finds that for the purposes of Security Council resolution 687 (1991) any deferred payments agreements, in so far as they related to the alleged losses, did not have the effect of novating the debts.

3. Recommendation

326. The Panel recommends no compensation for contract losses.

B. Loss of tangible property

1. Facts and contentions

327. Hindustan seeks compensation of USD 463,087 and USD 1,440,000 for the alleged loss of equipment in Iraq and Kuwait, respectively.

328. Hindustan stated that following completion of its last project in Iraq in 1989, it began moving equipment and machinery back to India through Kuwait. Hindustan moved much of its equipment and machinery to Kuwait between 4 April and 29 July 1990 and stored it in a public warehouse as "in transit cargo". Hindustan alleged that it paid a refundable customs deposit equal to four to six per cent of the total value of the equipment and machinery and a non-refundable customs duty of 0.4 per cent.

329. Hindustan stated that prior to Iraq's invasion and occupation of Kuwait it was unable to transport all of its equipment and machinery from Iraq to Kuwait. Hindustan alleged that these remaining items were confiscated by Iraq without payment of compensation.

330. Hindustan asserted that following Iraq's invasion and occupation of Kuwait, it could not transport the equipment and machinery from Kuwait to India. It stated that its representative returned to the warehouse in Kuwait in March 1992 and discovered that most of the cargo was gone and whatever was left was damaged and unusable.

2. Analysis and valuation

331. Hindustan provided an inventory list as evidence of its alleged losses. With reference to its claim for the alleged loss of assets located in Kuwait, Hindustan also provided untranslated customs receipts. It is not clear as to which assets the receipts relate.

332. Hindustan failed to provide any other evidence to support its alleged losses, such as certificates of title, receipts, purchase invoices, bills of lading, insurance documents, asset registers, hire purchase or lease agreements, transportation documents or other relevant documents generated prior to 2 August 1990.

333. The Panel recommends no compensation as Hindustan has not submitted sufficient evidence of its title to or right to use the property.

3. Recommendation

334. The Panel recommends no compensation for loss of tangible property.

C. Other losses

335. Hindustan seeks compensation in the amount of USD 152,228 for the alleged loss of the refundable deposit paid in respect of the assets imported into Kuwait.

336. Hindustan provided a copy of a letter dated 13 June 1990 from Hindustan's Kuwaiti agents confirming payment of the customs deposits (and duties) together with (untranslated) copies of the customs receipts.

337. The Panel recommends no compensation for the loss of refundable customs deposits in Kuwait as Hindustan has failed to provide sufficient evidence of the alleged loss of tangible property.

338. The Panel recommends no compensation for financial losses.

D. Interest

339. As the Panel recommends no compensation for contract losses, there is no need for the Panel to determine the date of loss from which interest would accrue.

E. Recommendation for Hindustan

Table 20. RECOMMENDED COMPENSATION FOR HINDUSTAN

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	14,154,321	nil
Loss of tangible property	1,903,087	nil
Other losses	152,228	nil
Interest	1,000,215	nil
TOTAL	17,209,851	nil

340. Based on its findings regarding Hindustan's claim, the Panel recommends no compensation.

XIII. CLAIM OF U.P. STATE BRIDGE CORPORATION LIMITED

341. U.P. State Bridge Corporation Limited ("U.P. State Bridge") is an Indian public sector enterprise that is involved in the construction of bridges. U.P. State Bridge seeks compensation in the amount of USD 8,698,000 for contract losses, loss of tangible property, payment or relief to others, financial losses and interest.

Table 21. U.P. STATE BRIDGE'S CLAIM

Claim element	Claim amount (USD)
Contract losses	6,284,000
Loss of tangible property	1,095,000
Payment or relief to others	11,000
Financial losses	83,000
Interest	1,225,000
TOTAL	8,698,000

A. Contract losses

1. Facts and contentions

342. U.P. State Bridge alleged a number of contract losses in the total amount of USD 6,284,000.

343. First, U.P. State Bridge asserted that it incurred losses in respect of the foreign currency portion of payments allegedly due in respect of two projects, namely the Darbandikhan and Jassan-Mandali (1&2) Bridge projects. It would appear from the information provided by U.P. State Bridge that work on the projects was completed in 1986.

344. Second, U.P. State Bridge asserted that the "flow of foreign currency installments due under Indo-Iraq Deferred Payment Agreement were held up due to the outbreak of gulf war". U.P. State Bridge did not identify the relevant projects in its statement of claim nor did it indicate the dates of performance of the work to which the alleged losses relate.

345. Finally, U.P. State Bridge alleged that it has not received payment of final bills and retention monies in respect of a number of projects including Khonaquin Bridge, Bedra Bridge, Eskikalak, Qaiyara, Mosul Kirkuk, Jacon Mondali and Girda Gosina projects.

346. U.P. State Bridge failed to state the dates on which the work was performed under these projects or the dates of the related certificates.

2. Analysis and valuation

347. U.P. State Bridge failed to provide adequate documentary evidence, such as copies of the relevant contracts, contract conditions, applications for payment, approved payment certificates, interim certificates, progress reports, account invoices and proof of actual payments received.

348. The Panel recommends no compensation for contract losses as U.P. State Bridge has not provided sufficient evidence of its recoverable losses.

3. Recommendation

349. The Panel recommends no compensation for contract losses.

B. Loss of tangible property

1. Facts and contentions

(a) Loss of plant and equipment

350. U.P. State Bridge seeks compensation of USD 870,000 for loss of plant and equipment from its Baquaba and Eskikalak camps in Iraq. It also seeks compensation for loss of office equipment from its Baghdad office. U.P. State Bridge did not specify the amount of the alleged losses, but simply included the alleged losses in the amount of USD 11,000 claimed for evacuation losses.

351. U.P. State Bridge attributed the loss of plant and equipment to the forced evacuation of its project manager on the 7 January 1991 following which, it alleged, "Iraqi Military organisations" expropriated much of the property. It asserted that it had already agreed to the sale of the property and following its expropriation it incurred a shortfall in the sale proceeds.

352. U.P. State Bridge attributed the alleged loss of office equipment to the forced evacuation of its entire personnel from the Baghdad office "following the announcement by the allied forces of their action plan".

(b) Loss of motor vehicle

353. U.P. State Bridge stated that following Iraq's invasion and occupation of Kuwait, it had entered into an agreement with an Iraqi citizen to dispose of a Mercedes Benz car. It alleged that the sale was necessitated by the forced evacuation of its employees from Baghdad. U.P. State Bridge asserted that following its evacuation the car was stolen with resulting losses in the amount of USD 225,000 in respect of both the non-realization of the sale proceeds and a custom penalty allegedly payable to Iraqi customs due to non-clearance of exportation by the Iraqi Customs Department.

2. Analysis and valuation

(a) Loss of plant and equipment

354. U.P. State Bridge failed to submit any documentary evidence in support of its alleged losses except for a contract for the sale of the contents of the two camps. The contract is undated and U.P. State Bridge omitted to attach the list of items to which reference is made in the contract.

355. The Panel recommends no compensation for loss of plant and equipment as U.P. State Bridge has not submitted sufficient evidence to establish its title to or right to use the assets.

(b) Loss of motor vehicle

356. U.P. State Bridge failed to submit any evidence of its title to or right to use the motor vehicle.

357. The Panel recommends no compensation for the loss of the motor vehicle as U.P. State Bridge has not provided sufficient evidence to establish its title to or right to use the motor vehicle nor has it provided proof of payment of the alleged customs penalty.

3. Recommendation

358. The Panel recommends no compensation for loss of tangible property.

C. Payment or relief to others

1. Facts and contentions

359. U.P. State Bridge seeks compensation of USD 11,000 for the alleged costs of evacuating its employees and their dependants from Iraq.

360. U.P. State Bridge stated that as soon as "the allied forces had issued their action plan" it became necessary to close down its Baghdad office and to evacuate its employees and their dependants through Jordan. According to the documentary evidence submitted by U.P. State Bridge, it evacuated its project engineer, another engineer, his wife and daughter, a driver and a cook.

2. Analysis and valuation

361. U.P. State Bridge provided as evidence of its alleged losses copies of application forms for booking of passengers with Royal Jordan Airlines in respect of the six evacuees and copies of correspondence relating to the related prepaid ticket vouchers. However, it did not provide copies of the vouchers, invoices or the actual ticket stubs nor did it provide employee

identification numbers, Iraqi residency permit numbers or payroll records for any of its employees.

362. The Panel recommends no compensation for the evacuation costs as U.P. State Bridge has not provided sufficient evidence in support of its alleged losses.

363. U.P. State Bridge also failed to demonstrate that the expenses it allegedly incurred were in excess of the expenses it would have incurred ordinarily in repatriating its employees assuming normal completion of the contract works.

3. Recommendation

364. The Panel recommends no compensation for payment or relief to others.

D. Financial losses

365. U.P. State Bridge submitted two claims for financial losses. First, it alleged that the State Bank of India issued two bank guarantees to U.P. State Bridge's Employers. U.P. State Bridge asserted that the its Employers have not released the guarantees with the result that U.P. State Bridge incurred losses of USD 19,000 in having to continue the payment of commissions.

366. Second, U.P. State Bridge asserted losses of USD 64,000 for a customs penalty and a penalty imposed by two Iraqi authorities, Income Tax and Ministry of Trade, for delays in finalizing the accounts of its Baghdad office.

367. U.P. State Bridge failed to submit any evidence in support of its alleged losses.

368. The Panel recommends no compensation for claimed losses relating to the alleged costs of the bank guarantees and customs and filing penalties as U.P. State Bridge has not provided sufficient evidence to support its alleged losses.

369. The Panel recommends no compensation for financial losses.

E. Interest

370. As the Panel recommends no compensation for contract losses, there is no need for the Panel to determine the date of loss from which interest would accrue.

F. Recommendation for U.P. State Bridge

Table 22. RECOMMENDED COMPENSATION FOR U.P. STATE BRIDGE

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	6,284,000	nil
Loss of tangible property	1,095,000	nil
Payment or relief to others	11,000	nil
Financial losses	83,000	nil
Interest	1,225,000	nil
TOTAL	8,698,000	nil

371. Based on its findings regarding U.P. State Bridge's claim, the Panel recommends no compensation.

XIV. CLAIM OF GAMMON INDIA LIMITED

372. Gammon India Limited ("Gammon") is an Indian construction company. Gammon seeks compensation in the amount of USD 4,171,420 for loss of profits, loss of tangible property and financial losses.

373. In its original submission, Gammon sought compensation in the amounts of IQD 1,115,000 (USD 3,578,035) and USD 5,708,262. It subsequently withdrew its claim for contract losses in the amount of USD 5,114,877 in its reply to a claim development letter.

Table 23. GAMMON'S CLAIM

Claim element	Claim amount (USD)
Loss of profits	3,578,035
Loss of tangible property	575,062
Financial losses	18,323
TOTAL	4,171,420

A. Loss of profits

1. Facts and contentions

374. Gammon seeks compensation in the amount of IQD 1,115,000 for loss of profits in connection with two projects, the Nassiriyah Bridge and the Ramadi Bridge projects in Iraq.

375. Gammon entered into a contract on 28 February 1990 with Messrs. Nabech Ismile Farhan Co. under which the bored piling and pre-stressing works on the Nassiriyah project were subcontracted to Gammon. Gammon did not commence the works by 2 August 1990 as it was awaiting various statutory clearances. It stated that it had mobilized manpower and equipment in anticipation of commencing work on the project. Gammon asserted that it was prevented from commencing work on the project as a result of Iraq's invasion and occupation of Kuwait.

376. Gammon stated that the value of the Nassiriyah Bridge contract was IQD 541,300 in respect of which it alleged that it would have earned a profit of 17.5 per cent, which it approximated as IQD 95,000.

377. Gammon had not signed a contract for the Ramadi Bridge contract by 2 August 1990. However, it asserted that it had the lowest bid for the project. Gammon alleged that the Ramadi project was worth IQD 6,800,000 in respect of which it would have earned a profit of 15 per cent, i.e., IQD 1,020,000.

2. Analysis and valuation

378. Gammon submitted a reconciliation between the "E" claim form and its annual accounts for the year ended 1991 as evidence of its alleged losses.

379. In its previous reports, the Panel has held that a claimant must provide evidence that establishes with reasonable certainty ongoing and expected profitability to support a claim for loss of profits. In the absence of such evidence, the Panel will not recommend compensation for loss of profits.

380. The Panel recommends no compensation for loss of profits as Gammon has failed to provide adequate evidence of ongoing and expected profitability in respect of either of the two projects concerned.

3. Recommendation

381. The Panel recommends no compensation for loss of profits.

B. Loss of tangible property

382. Gammon seeks compensation of IQD 179,203 for the loss of plant and machinery, furniture and fixtures, and one motor vehicle in Iraq following the evacuation of it employees in January 1991.

383. Gammon stated that at the time of Iraq's invasion and occupation of Kuwait it had plant and machinery on its Khaldiya Bridge and Basrah project sites in Iraq and office furniture and equipment in its Iraqi office. Gammon alleged that it imported the plant and machinery into Iraq on a temporary basis.

384. Gammon failed to submit evidence of its title to or right to use either the plant and machinery or the furniture and office equipment.

385. The Panel recommends no compensation as Gammon has not submitted sufficient evidence of its alleged loss.

386. The Panel recommends no compensation for loss of tangible property.

C. Financial losses

1. Facts and contentions

(a) Iraqi bank accounts

387. Gammon seeks compensation of IQD 2,059 for the alleged loss of funds held in its Iraqi bank accounts. Gammon asserted that it held funds in the total amount of IQD 2,059 in account numbers 1530 and 2720 (the "accounts") with the Rafidain Bank in Iraq. The accounts were used by Gammon in

connection with the Al Khalidiyah Bridge and Abu Gharib Piling Works projects.

(b) Cash on site in Iraq

388. Gammon seeks compensation of IQD 3,651 for the alleged loss of cash from its Baghdad office. Gammon asserted that it left cash in the amount of IQD 3,651 with its cashier in its Baghdad office when the rest of its staff left Iraq. The cashier subsequently left Iraq on 19 January 1991 and allegedly left behind the cash in the office. Gammon stated that the Iraqi landlord, who later took over possession of the premises, informed its Iraqi accountant, who was investigating the whereabouts of the cash, that he found no cash in the premises. Gammon asserted that the cash was lost "due to attack of UN security forces".

2. Analysis and valuation

(a) Iraqi bank accounts

389. Gammon acknowledged in its reply to a claim development letter that the funds in the accounts were intended to be expended in Iraq and were not "transferable or repatriable out of Iraq at all". Gammon failed to provide an explanation of how the money in the accounts is alleged to have been lost. Gammon failed to state whether it had attempted to withdraw the funds despite being specifically requested to do so in a claim development letter.

390. The Panel recommends no compensation for loss of the balances in Gammon's Iraqi bank accounts as the funds contained therein were not transferable or repatriable.

(b) Cash on site in Iraq

391. Gammon asserted in its reply to the claim development letter that it cannot provide extracts from it cash book in support of its alleged losses as it left all documents behind in its Iraqi office, which were allegedly lost.

392. The Panel recommends no compensation as Gammon has failed to provide sufficient evidence in support of its alleged losses.

3. Recommendation

393. The Panel recommends no compensation for financial losses.

D. Recommendation for Gammon

Table 24. RECOMMENDED COMPENSATION FOR GAMMON

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	3,578,035	nil
Loss of tangible property	575,062	nil
Financial losses	18,323	nil
TOTAL	4,171,420	nil

394. Based on its findings regarding Gammon's claim, the Panel recommends no compensation.

XV. CLAIM OF F.LLI DELFINO S.P.A.

395. F.lli Delfino S.p.A. ("Delfino") is an Italian company that is involved in the construction, assembly and maintenance of industrial plants. Delfino seeks compensation in the amounts of USD 94,113, ITL 429,819,605 (USD 370,758) and IQD 66,217 (USD 212,483) for contract losses, loss of tangible property and financial losses.

396. Delfino stated that it went into voluntary liquidation in March 1994 and into bankruptcy in January 1996.

Table 25. DELFINO'S CLAIM

Claim element	Claim amount (USD)
Contract losses	398,776
Loss of tangible property	66,095
Financial losses	212,483
TOTAL	677,354

A. Contract losses

1. Facts and contentions

(a) Jebel Kara contract

397. Delfino entered into a contract dated 24 May 1990 with the General Establishment for Water and Sewerage for the supply of equipment for the construction of two pumping stations in Jebel Kara in Iraq (the "Jebel Kara contract"). Delfino did not state the exact dates on which the Jebel Kara contract commenced or terminated.

398. Delfino alleged that it supplied engineering works in the amount of ITL 280,000,000 and completed a pipeline survey worth ITL 40,000,000.

399. Delfino seeks compensation for contract losses of ITL 320,000,000.

(b) Aradet contract

400. Delfino entered into a contract on 15 August 1989 with an Iraqi entity called the "Aradet" for the supply of tube bundles for heat exchangers (the "Aradet contract"). Delfino did not state the exact dates on which the contract commenced or terminated. Contract payments were to be effected under a letter of credit upon negotiation of the relevant shipping documentation. Delfino asserted that it delivered the materials on 20 July 1990.

401. Delfino submitted a copy of a telex dated 17 August 1990 from UBAE Arab Italian Bank, which stated with reference to Delfino's request for reimbursement under the letter of credit for the claimed amount, that according to a decree dated 2 August 1990 and "arrete" dated 4 August 1990, "all movements of funds on Iraqi nationals account are blocked by order of the French authorities".

402. Delfino seeks compensation of ITL 85,870,000 for losses allegedly incurred in connection with the Aradet contract for unpaid deliveries of materials.

(c) Saadiya contract

403. Delfino alleged that it entered into a contract with the State Organization for Water and Sewerage in respect of a turnkey water treatment plant (the "Saadiya contract"). Delfino failed to specify the date of the contract or the exact dates on which the Saadiya contract commenced or terminated.

404. Delfino described the alleged loss of USD 28,018 claimed under the Saadiya contract as "cash residue" and attributed it to Iraqi law 57/1990, a deterioration in relations between Iraq and Italy and a direction from the "Diwan of Presidency of Iraq", all of which are alleged to have stopped payments to Italian companies.

405. Delfino submitted a translation of a letter dated 4 December 1988 sent by the Central Bank of Iraq to Rafidain bank authorizing the transfer of the claimed amount of USD 28,018 as evidence of it alleged losses.

(d) State Enterprises contract

406. Delfino entered into a contract dated 20 March 1990 with the State Enterprise for Northern Gas Industry for the supply of bronze aluminum tubes (the "State Enterprises contract"). Delfino did not specify the exact dates on which the State Enterprises contract commenced or terminated. Contract payments were to be effected under a letter of credit against negotiation of the relevant shipping documentation. Delfino stated that it supplied tubes valued at ITL 23,949,605.

407. Delfino classified its loss under the State Enterprises contract as a loss of tangible property. However, as this aspect of the claim relates to the supply of goods for which Delfino allegedly was not paid, it has been reclassified as a claim for contract losses.

2. Analysis and valuation

(a) Jebel Kara contract

408. Delfino submitted as evidence of its alleged loss a copy of the contract, a report on "the foreseen and performed activities" and technical drawings of the pumping station.

409. The Panel recommends no compensation for the alleged losses arising under the Jebel Kara contract as Delfino has not provided sufficient evidence of the work performed.

(b) Aradet contract

410. The Panel recommends no compensation of the alleged losses as the French laws in question constituted a supervening event that made it impossible for Delfino to obtain payment for the goods it delivered to Iraq. Hence, the contract losses cannot be said to be a direct result of Iraq's invasion and occupation of Kuwait.

(c) Saadiya contract

411. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Delfino had a contract with Iraq.

412. The Panel recommends no compensation for contract losses arising under the Saadiya contract as the contract losses are debts and obligations of Iraq arising prior to 2 August 1990 and, therefore, are outside the jurisdiction of the Commission.

(d) State Enterprises contract

413. The Panel recommends no compensation for the alleged losses arising under the State Enterprises Contract as Delfino has submitted no evidence that performance was completed or that the asserted losses were a direct result of Iraq's invasion and occupation of Kuwait.

3. Recommendation

414. The Panel recommends no compensation for contract losses.

B. Loss of tangible property

1. Facts and contentions

415. Delfino seeks compensation for USD 66,095 for the cost of seven vehicles, which, it alleged, were "blocked as a consequence of the events".

416. Delfino had also sought compensation of ITL 23,949,605 for loss of tangible property under the State Enterprises contract, which has been reclassified as a contract loss.

2. Analysis and valuation

417. Delfino provided three invoices for the purchase of the vehicles as evidence of its alleged losses. Delfino failed to submit any other evidence in support of its claim.

418. The Panel recommends no compensation for loss of tangible property as Delfino has not provided sufficient evidence of its title to or right to use the vehicles.

3. Recommendation

419. The Panel recommends no compensation for loss of tangible property.

C. Financial losses

1. Facts and contentions

420. Delfino seeks compensation for IQD 5,943 for the alleged loss of its bank account with the Rafidain bank in Iraq and IQD 963 for the alleged loss of cash from its safe in Iraq.

421. Delfino also seeks compensation of IQD 206,011 for the alleged cost of bank guarantees. Delfino made an error in calculating this figure. According to the information provided by Delfino, the correct amount is, in fact, IQD 59,311.

2. Analysis and valuation

422. Delfino failed to state whether the funds in the Iraqi bank account were convertible or transferable. It simply stated that the account has been "blocked" as a result of various Iraqi and Italian laws.

423. It is not clear how the losses alleged in respect of the cash in Delfino's safe in Iraq or the bank guarantees have been calculated or how they arose. With reference to the bank guarantee allegedly obtained for the Saadiya contract, Delfino simply stated that it was impossible to recover the guarantee. Delfino failed to state how the alleged loss of the guarantees arose.

424. The Panel recommends no compensation for financial losses as Delfino has failed to provided sufficient evidence that its losses were a direct result of Iraq's invasion and occupation of Kuwait.

3. Recommendation

425. The Panel recommends no compensation for financial losses.

D. Recommendation for Delfino

Table 26. RECOMMENDED COMPENSATION FOR DELFINO

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	398,776	nil
Loss of tangible property	66,095	nil
Financial losses	212,483	nil
TOTAL	667,354	nil

426. Based on its findings regarding Delfino's claim, the Panel recommends no compensation.

XVI. CLAIM OF SICOM S.P.A.

427. SICOM S.p.A. ("SICOM") is an Italian civil engineering company that specialises in the construction and supply of electro-mechanical installations. SICOM seeks compensation for loss of tangible property in the amount of USD 1,002,048.

428. According to documentation submitted by SICOM, SICOM went into voluntary liquidation in December 1993.

Table 27. SICOM'S CLAIM

Claim element	Claim amount (USD)
Loss of tangible property	1,002,048
TOTAL	1,002,048

A. Loss of tangible property

1. Facts and contentions

429. SICOM was a subcontractor to another Italian company, Gruppo Industriale Elettro Meccanico per Impianti all'Estero S.p.A., on two projects, namely, the extension of the Daura Thermal Station and the installation of electro-mechanical works for the Mosul 3 Pumped Storage Scheme in Iraq (the "subcontracted works"). SICOM did not state the dates of the subcontracts or provide copies of the underlying contracts.

430. SICOM stated that it imported equipment and vehicles and employed local and expatriate personnel in order to carry out the subcontracted works. It seeks compensation in the amount of USD 1,002,048 for equipment and vehicles located on its projects sites, which, it alleged, were expropriated by Iraqi authorities pursuant to a Presidential decree.

2. Analysis and valuation

431. SICOM submitted lists of the equipment and vehicles alleged to have been expropriated by the Iraqi authorities as evidence of its alleged losses.

432. The Panel recommends no compensation for loss of tangible property as SICOM has not submitted sufficient evidence or documentation to support its alleged losses.

3. Recommendation

433. The Panel recommends no compensation for loss of tangible property.

B. Recommendation for SICOM

Table 28. RECOMMENDED COMPENSATION FOR SICOM

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Loss of tangible property	1,002,048	nil
TOTAL	1,002,048	nil

434. Based on its findings regarding SICOM's claim, the Panel recommends no compensation.

XVII. CLAIM OF ITALSTRADE S.P.A.

435. On 23 November 1999, the Commission received a notice of withdrawal of the claim by Italstrade S.p.A. ("Italstrade") from the Government of Italy. In the light of this communication, the Panel issued a procedural order on 13 December 1999, pursuant to article 42 of the Rules, acknowledging the withdrawal and terminating the Panel's proceedings with respect to the claim by Italstrade.

XVIII. CLAIM OF IMPRESIT GIROLA LODIGIANI (IMPREGLIO) S.P.A.

436. On 23 November 1999, the Commission received a notice of withdrawal of the claim by Impresit Girola Lodigiani (IMPREGILO) S.p.A. ("IMPREGILO") from the Government of Italy. In the light of this communication, the Panel issued a procedural order on 13 December 1999, pursuant to article 42 of the Rules, acknowledging the withdrawal and terminating the Panel's proceedings with respect to the claim by IMPREGILO.

XIX. CLAIM OF VVO SELKHOZPROMEXPORT

437. VVO Selkhozpromexport ("Selkhozpromexport") is a Russian consortium of twelve firms who share an expertise in irrigation construction. Selkhozpromexport seeks compensation in the amount of USD 21,862,754 for contract losses, loss of profits, real property losses, loss of tangible property, payment or relief to others, other losses and interest.

Table 29. SELKHOZPROMEXPORT'S CLAIM

Claim element	Claim amount (USD)
Contract losses	14,141,451
Loss of profits	527,074
Real property losses	340,248
Loss of tangible property	509,613
Payment or relief to others	1,242,733
Other losses	580,317
Interest	4,521,318
TOTAL	21,862,754

A. Contract losses

1. Facts and contentions

438. At the time of Iraq's invasion and occupation of Kuwait, Selkhozpromexport was involved in three projects in Iraq, namely:

a. the design and construction of an extensive irrigation system known as the Tigris-Euphrates Main Outfall Drain (the "Drain Project");

b. the construction of a large grain silo in Sulaimaniya (the "Sulaimaniya Silo Project"); and

c. the delivery of spare parts for several other Iraqi grain silos (the "Silo Spare Parts Project").

439. These three projects were governed by five contracts:

i. Contract dated 20 May 1986 between Selkhozpromexport and the Ministry of Irrigation of the Republic of Iraq (the "Employer") for the provision of design work, equipment and materials, and supervision of construction on the Drain Project (the "Drain Construction contract");

ii. Contract dated 20 May 1986 between Selkhozpromexport and the Ministry of Irrigation of the Republic of Iraq (the "Employer") for the supply over a 36 month period of spare parts for motor tractor facilities and road construction machinery used in the Drain Project (the "Drain Parts contract");

iii. Contract dated 7 April 1977 between Selkhozpromexport and the State Organization of Grain, Ministry of Trade, Baghdad (the "Employer") for the design and construction of four separate grain silos for the Sulaimaniya Silo Project (the "Silo Construction contract");

iv. Contract dated 25 June 1988 between Selkhozpromexport and the General Company for Grain Trading, Ministry of Trade of the Republic of Iraq (the "Employer") for the supply of spare parts to two silos in Makmour and Ba'aj, as part of the Silo Spare Parts Project (the "Makmour and Ba'aj Parts contract"); and

v. Contract dated 25 June 1988 between Selkhozpromexport and the General Company for Grain Trading, Ministry of Trade of the Republic of Iraq (the "Employer") for the supply of spare parts to nine other silos located in various Iraqi towns, as part of the Silo Spare Parts Project (the "Nine Silos Parts contract").

440. The Drain Project is an extensive irrigation system designed to capture water on the Mesopotamian Plain and channel it onto farmland near the Persian Gulf. Under the Drain Construction contract, Selkhozpromexport was responsible for assisting Iraq with the design and construction of the "Middle Part" of the Drain Project Scheme, which consisted of a 187 km stretch from Dalmaj to Nassiria. The Sulaimaniya Silo Project involved the construction of four separate grain silos. The Silo Spare Parts Project involved the supply of spare parts to grain silos in Iraq.

441. Selkhozpromexport alleged that as a result of Iraq's invasion and occupation of Kuwait, it was forced to evacuate its personnel from Iraq, terminate its ongoing work on both the Drain and the Sulaimaniya Silo Projects and cease shipments of spare part to Iraq.

(a) Drain Construction contract

442. Selkhozpromexport seeks compensation in the amount of USD 4,058,676 for contract losses arising in connection with the Drain Construction contract. This amount represents the total amount of unpaid invoices for services provided by its "Specialists" in supervising the construction of the Drain Project. Under the contract, the Employer agreed to pay for these services at monthly rates ranging from IQD 273 to IQD 508 in the following proportions: 60 per cent in United States dollars and 40 per cent in Iraqi dinar. The Employer was normally afforded 30 days in which to pay the invoices. However, the force majeure clause of the contract provided for payment within 45 days of all monies owing to Selkhozpromexport in the event of war.

443. Selkhozpromexport stated that following Iraq's invasion and occupation of Kuwait, its specialists continued work on the Drain Project until 16 January 1991 when they were forced to evacuate.

444. Between May 1989 and January 1991, Selkhozpromexport presented 38 invoices to the Employer for services rendered by its specialists. It had adopted a practice of sending the Employer two invoices every month - one for the 60 per cent United States dollar portion and the other for the 40 per cent Iraqi dinar portion. Therefore, of the 38 invoices presented to the Employer, 19 related to United States dollar amounts. Selkhozpromexport stated that of these invoices, only five were paid by the Employer. It also stated that the Employer paid only 16 Iraqi dinar invoices. The unpaid Iraqi dinar invoices and the unpaid United States dollar invoices amount to USD 207,118 and USD 3,851,558, respectively.

(b) Drain Parts contract

445. Selkhozpromexport seeks compensation in the amount of USD 9,608,774 in relation to unpaid invoices for spare parts shipped to Iraq between 29 September 1987 and 26 June 1990.

446. Selkhozpromexport began shipping the spare parts to the Employer under the Drain Parts contract in September 1987 and continued to do so on a regular basis up to 2 August 1990. The Employer paid for the spare parts through an irrevocable revolving letter of credit with the Bank of Foreign Trade of the former USSR. Selkhozpromexport stated that by 2 August 1990, it had shipped 73 per cent of the spare parts called for under the Drain Parts contract and had presented 124 invoices totaling USD 11,688,625 for spare parts delivered between 29 September 1987 and 26 June 1990.

447. Selkhozpromexport asserted that following Iraq's invasion and occupation of Kuwait, it was no longer safe to send shipments to that region and, in any event, work on the Drain Project had ceased due to Iraq's invasion and occupation of Kuwait.

(c) Makmour and Ba'aj Parts contracts

448. Selkhozpromexport seeks USD 293,801 for three unpaid invoices, namely invoice numbers 72/43015-1 to 72/43015-3, for spare parts and electrical equipment delivered to the Employer under the Makmour and Ba'aj Parts contract.

449. Selkhozpromexport commenced shipping the spare parts in January 1990 and made two further deliveries in April and July 1990. Selkhozpromexport asserted that shipments were halted as a result of Iraq's invasion and occupation of Kuwait by which time 67 per cent of the spare parts called for under the contract had been shipped to Iraq. For all these shipments, Selkhozpromexport alleged that the Employer had failed to pay the 10 per

cent cash portion due on delivery and had refused to pay the balance as the shipments were halted.

(d) Nine Silos Parts contract

450. Selkhozpromexport seeks compensation in the amount of USD 180,200 for four unpaid invoices, namely invoice numbers 72/53410-1 to 72/53410-4, for spare parts delivered under the Nine Silos Parts contract. Selkhozpromexport asserted that by August 1990 it had made four shipments, but had received no payments from the Employer.

451. Selkhozpromexport commenced shipping the spare parts in January 1990 and made three further deliveries - one in April and two in July 1990. Selkhozpromexport asserted that shipments were halted as a result of Iraq's invasion and occupation of Kuwait by which time 19 per cent of the spare parts had been shipped to Iraq. It stated that the Employer had failed to pay the 10 per cent cash portion due on delivery for all these shipments and had refused to pay the balance as the shipments were halted.

2. Analysis and valuation

(a) Drain Construction contract

452. Selkhozpromexport submitted as evidence of its losses a copy of the contract, a schedule of unpaid invoices, copies of the 17 unpaid invoices, an affidavit, requests for payment to the Employer and detailed back-up documentation for the invoices covering the work that was performed in each month from May 1990 through October 1990.

453. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Selkhozpromexport had a contract with Iraq.

454. The Panel finds that the value of the unpaid work performed prior to 2 May 1990 was USD 1,791,909. The value of the work that was performed after 2 May 1990 was USD 2,266,767.

455. Selkhozpromexport relied on the *force majeure* provisions contained in the contract to claim that all payments owing in respect of completed works became due following Iraq's invasion and occupation of Kuwait. Hence, Selkhozpromexport asserted that notwithstanding any jurisdictional exclusion imposed by Security Council resolution 687 (1991), such provisions should govern and compensation should be awarded according to the terms of these provisions.

456. The Panel finds that such contractual agreements or clauses can not override the "arising prior to" exclusion in Security Council resolution 687.

457. The Panel finds that the losses that allegedly arose in connection with work performed prior to 2 May 1990 are outside the jurisdiction of the Commission.

458. The Panel recommends compensation of USD 2,266,767 in respect of all unpaid work that was performed after 2 May 1990 as the losses were due to the forced evacuation of Selkhozpromexport's personnel from Iraq.

(b) Drain Parts contract

459. Selkhozpromexport submitted as evidence of its losses a copy of the contract, a copy of an irrevocable letter of credit number 8/20865 opened pursuant to the Drain Parts contract, a schedule of unpaid invoices, a schedule of the total amounts outstanding for the 124 invoices, copies of the 124 invoices, an affidavit, requests to Iraq for payment and the Rafidain Bank in Baghdad from Selkhozpromexport and its bank, USSR Vneshtorgbank and the corresponding specification sheets and bills of lading.

460. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Selkhozpromexport had a contract with Iraq.

461. The Panel finds that invoice numbers 122 and 123 relate to the delivery of parts before 2 May 1990 and invoice number 124 relates to the delivery of parts after 2 May 1990.

462. Selkhozpromexport relied on the force majeure provisions contained in the contract to claim that all payments owing in respect of completed works became due following the invasion and occupation. Hence, Selkhozpromexport asserted that notwithstanding any jurisdictional exclusion imposed by Security Council resolution 687 (1991), such provisions should govern and compensation should be awarded according to the terms of these provisions.

463. The Panel finds that such contractual agreements or clauses can not override the "arising prior to" exclusion in Security Council resolution 687.

464. The Panel finds that the losses that allegedly arose in connection with invoice numbers 122 and 123 are outside the jurisdiction of the Commission.

465. The Panel recommends compensation of USD 160,684 in respect of losses incurred in connection with invoice number 124 as the losses were a direct result of Iraq's invasion and occupation of Kuwait.

(c) Makmour and Ba'ai Parts contracts

466. Selkhozpromexport submitted as evidence of its losses a copy of the contract, a copy of an irrevocable letter of credit, a schedule of unpaid invoices, copies of the three unpaid invoices, copies of the relevant bills of lading that accompanied the three shipments of parts, an affidavit and requests for payment.

467. Selkhozpromexport stated that under the contract it was only obliged to deliver "C&F, port Aqaba" in Jordan following which it was Iraq's responsibility to deliver the parts to the project site in Iraq. According to the contract, the date of the relevant bill of lading was deemed to be the date of delivery.

468. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Selkhozpromexport had a contract with Iraq.

469. The Panel finds that invoice numbers 72/43015-1 and 72/43015-2 relate to the delivery of parts before 2 May 1990 and invoice number 72/43015-3 relates to the delivery of parts after 2 May 1990.

470. Selkhozpromexport relied on the force majeure provisions contained in the contract to claim that all payments owing in respect of completed works became due following Iraq's invasion and occupation of Kuwait. Hence, Selkhozpromexport asserted that notwithstanding any jurisdictional exclusion imposed by Security Council resolution 687 (1991), such provisions should govern and compensation should be awarded according to the terms of these provisions.

471. The Panel finds that such contractual agreements or clauses can not override the "arising prior to" exclusion in Security Council resolution 687.

472. The Panel finds that the alleged losses that arose in connection with invoice numbers 72/43015-1 and 72/43015-2 are outside the jurisdiction of the Commission.

473. The Panel recommends compensation of USD 150,340 in respect of losses incurred in connection with invoice 72/43015-3 as the losses were a direct result of Iraq's invasion and occupation of Kuwait.

(d) Nine Silos Parts contract

474. Selkhozpromexport submitted as evidence of its losses a copy of the contract, a copy of an irrevocable letter of credit opened pursuant to the contract, a schedule of unpaid invoices, copies of the four unpaid invoices, copies of the relevant bills of lading that accompanied the three shipments of parts and an affidavit.

475. Selkhozpromexport stated that under the contract, it was only obliged to deliver "C&F, port Aqaba" in Jordan following which it was Iraq's responsibility to deliver the parts to the project site in Iraq. According to the contract, the date of the relevant bill of lading was deemed to be the date of delivery.

476. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Selkhozpromexport had a contract with Iraq.

477. The Panel finds that invoice numbers 72/53410-1 and 72/53410-2 relate to the delivery of parts before 2 May 1990 and invoice numbers 72/53410-3 and 72/53410-4 relate to the delivery of parts after 2 May 1990.

478. Selkhozpromexport relied on the force majeure provisions contained in the contract to claim that all payments owing in respect of completed works became due following Iraq's invasion and occupation of Kuwait. Hence, Selkhozpromexport asserted that notwithstanding any jurisdictional exclusion imposed by Security Council resolution 687 (1991), such provisions should govern and compensation should be awarded according to the terms of these provisions.

479. The Panel finds that such contractual agreements or clauses cannot defeat the "arising prior to" exclusion in Security Council resolution 687.

480. The Panel finds that the alleged losses that arose in connection with invoices 72/53410-1 and 72/53410-2 are outside the jurisdiction of the Commission.

481. The Panel recommends compensation of USD 155,314 in respect of losses incurred in connection with invoice numbers 72/53410-3 and 72/53410-4 as the losses were a direct result of Iraq's invasion and occupation of Kuwait.

3. Recommendation

482. The Panel recommends compensation in the amount of USD 2,733,105 for contract losses.

B. Loss of profits

1. Facts and contentions

483. Selkhozpromexport seeks compensation of USD 527,074 for loss of profits under the Drain Parts, Makmour and Ba'aj, and Nine Silos Parts contracts in respect of parts, which, it alleged, it was unable to deliver as a result of Iraq's invasion and occupation of Kuwait. Selkhozpromexport stated that it had scheduled deliveries of the remaining parts under each contract for August and September 1990.

484. Selkhozpromexport asserted that it had purchased all the parts required under each contract from third parties. Selkhozpromexport stated that it sold the undelivered parts on the Soviet domestic market at cost price.

485. Selkhozpromexport alleged that it lost future profit of USD 437,885 under the Drain Parts contract, which represents a 10 per cent profit margin on the value of undelivered parts. The undelivered parts represented 27 per cent of the total parts under the Drain Parts contract.

486. Selkhozpromexport alleged that it lost future profit of USD 14,327 under the Makmour and Ba'aj Parts contracts, which represents a 10 per cent margin on the undelivered parts. The undelivered parts represented 33 per cent of the total parts under the Makmour and Ba'aj contracts.

487. Selkhozpromexport alleged it lost future profit of USD 74,862 under the Nine Silos Parts contract, which represents a 10 per cent margin on the undelivered parts. The undelivered parts represented 81 per cent of the total parts under the Nine Silos Parts contract.

488. Selkhozpromexport stated that in each case its anticipated profit margin was the difference between the contract price and the cost price.

489. Selkhozpromexport stated that it did not deduct shipping and other direct and administrative costs in calculating its alleged loss of profits as it incurred the same level of costs in seeking out and selling the parts to third parties on the Soviet domestic market. Selkhozpromexport asserted that such costs would have been minimal in any case.

2. Analysis and valuation

490. Selkhozpromexport asserted that it would have been unsafe to ship goods during the hostilities and, in any event, Iraq's need for the additional parts was eliminated by the termination of the two construction contracts caused by the forced evacuation of Selkhozpromexport's employees from Iraq.

491. Selkhozpromexport provided copies of the relevant spare parts contracts, a summary of the unpaid invoices, bank statements and one affidavit in support of its claim that it would have typically made a 10 per cent margin. It also provided a list of previous contracts, which notes the time of performance, the total contract price and the value of the completed work. However, Selkhozpromexport declined to submit calculations of projected profit in the make up of each contract despite being requested to do so.

492. The Panel recommends no compensation for the alleged loss of profits as Selkhozpromexport has failed to provide evidence that establishes with reasonable certainty ongoing and expected profitability.

3. Recommendation

493. The Panel recommends no compensation for loss of profits.

C. Real property losses

1. Facts and contentions

494. In its original submission, Selkhozpromexport sought compensation for loss of tangible property from the Sulaimaniya Silo Project site in the amount of USD 543,856. Two losses claimed as tangible property losses have been reclassified for the purposes of this report as real property losses as they relate to damage to buildings.

495. The first asserted loss of USD 337,521 arises in connection with the alleged damage to permanent buildings on the Sulaimaniya Silo Project site. The second asserted loss of USD 2,727 arises in connection with the alleged damage to Selkhozpromexport's office in Baghdad.

496. Selkhozpromexport alleged that it was forced to evacuate its personnel and suspend all work on site on 16 January 1991. Selkhozpromexport stated that after its departure from Iraq, the project site sustained significant damage as a result of hostilities and was also vandalized and looted as a result of civil unrest in Iraq.

2. Analysis and valuation

497. The Panel recommends no compensation for the alleged damage to the buildings on the Sulaimaniya Silo Project site and to the Baghdad office as Selkhozpromexport has failed to show that it has incurred the costs of repairing the damage and, therefore, has failed to demonstrate a compensable loss.

3. Recommendation

498. The Panel recommends no compensation for real property losses.

D. Loss of tangible property

1. Facts and contentions

499. The claim for tangible property losses has been reclassified for the purposes of this report to include only those claimed losses that relate to tangible property. The reclassified claim amounts to USD 509,613 and comprises:

Alleged loss item	IQD	USD equivalent
Equipment allegedly stolen from Selkhozpromexport's residence in Baghdad	2,922	9,376
Customs penalty allegedly paid for motor vehicle	100	321
Equipment allegedly stolen from Selkhozpromexport's residences in Sulaimaniya	57,873	185,703
Materials allegedly stolen from Selkhozpromexport's site in Sulaimaniya	2,558	8,208
Losses allegedly incurred by Selkhozpromexport's Iraqi subcontractor	95,364	306,005
TOTAL	158,817	509,613

500. Selkhozpromexport stated that it evacuated the last of it personnel from the site on 16 January 1991. It secured the equipment and hired Iraqi security personnel to protect the site. Selkhozpromexport asserted that notwithstanding its efforts to protect the site shelling and rioting destroyed virtually all of its property. It stated that all remaining property was stolen from the site during a period of unrest that followed the end of hostilities. The property that was allegedly stolen or destroyed consisted of machinery, vehicles, furniture for housing its personnel and other tangible property.

2. Analysis and valuation

501. Selkhozpromexport provided as evidence of its own losses schedules of the allegedly stolen or damaged property, photographs of the Sulaimaniya Silo Project site taken after the damage had been caused, descriptions of the photographs, an affidavit purporting to support the accuracy of the foregoing, a letter to the police from Selkhozpromexport's Iraqi agent detailing items allegedly stolen, a report from its Iraqi subcontractor describing equipment and materials allegedly stolen from site, a handwritten inventory dated 14 November 1991 of furniture allegedly stolen from the Baghdad office, an account for customs penalty and invoices and receipts in respect of Selkhozpromexport's equipment and materials on the Sulaimaniya site.

502. The Panel finds that Selkhozpromexport has established its ownership and the presence of the tangible property in Iraq at 2 August 1990. The Panel finds that the loss of the tangible property was a direct result of Iraq's invasion and occupation of Kuwait.

503. The Panel recommends compensation of USD 69,529 in respect of the loss of equipment from Selkhozpromexport's residences in Baghdad and Sulaimaniya. The Panel recommends no compensation of the loss of materials from the Sulaimaniya Project site. The amount of recommended compensation is calculated as follows:

Alleged loss item	Claimed amount USD	Recommended compensation USD
Equipment allegedly stolen from Selkhozpromexport's residence in Baghdad	9,376	2,575
Customs penalty allegedly paid for motor vehicle	321	nil
Equipment allegedly stolen from Selkhozpromexport's residences in Sulaimaniya	185,703	66,954
Materials allegedly stolen from Selkhozpromexport's site in Sulaimaniya	8,208	nil
Losses allegedly incurred by Selkhozpromexport's Iraqi subcontractor	306,005	nil
TOTAL	509,613	69,529

504. Selkhozpromexport failed to provide evidence in support of its claim for the alleged payment of the customs penalty. The Panel recommends no compensation for the alleged payment of the customs penalty as Selkhozpromexport has failed to provide sufficient evidence in support of its alleged loss.

505. The Panel recommends no compensation for the losses alleged to have been incurred by the Iraqi subcontractor. Pursuant to Security Council resolution 687 and Governing Council decision 7, Iraqi entities shall not be compensated for losses incurred as a result of Iraq's invasion and occupation of Kuwait.

3. Recommendation

506. The Panel recommends compensation in the amount of USD 69,529 for loss of tangible property.

E. Payment or relief to others

1. Facts and contentions

507. Selkhozpromexport seeks compensation of USD 1,242,733 for the cost of evacuating its employees and their dependants from the Drain Project and Sulaimaniya Silo Project sites to Russia. Selkhozpromexport alleged that between 28 August 1990 and 20 January 1991, it evacuated all 524 of its employees and their dependants from Iraq. Selkhozpromexport stated that the evacuation was necessary to protect Selkhozpromexport's employees and dependants from the dangerous conditions resulting from Iraq's invasion and occupation of Kuwait.

508. Of the 524 evacuees, 493 were affiliated to the Drain Project and 31 were affiliated to the Sulaimaniya Silo Project. Selkhozpromexport alleged that in nearly all cases it incurred the costs of commercial flights from Baghdad to Moscow, luggage transportation costs and the cost of Iraqi airport tax. Selkhozpromexport asserted that it also incurred hotel costs and wages and expense allowances for the evacuees while they waited in Moscow for onward transportation to their homes.

2. Analysis and valuation

509. Selkhozpromexport stated that the cost of evacuating its personnel from the Drain Project site was in excess of what it normally would have incurred under the Drain Construction contract as the Employer was responsible under the Drain Construction contract for the cost of repatriating Selkhozpromexport's specialists and their dependants when the contract works were completed.

510. Selkhozpromexport failed to provide an explanation of how the cost allegedly incurred in respect of the Sulaimaniya Silo Project was in excess of what Selkhozpromexport normally would have incurred on completion of the project. It did not assert that the Employer was responsible for the costs of repatriation following completion of the project.

511. With respect to the alleged hotel costs and wages and expense allowances for the evacuees while they waited in Moscow for onward transportation, Selkhozpromexport argued that under Soviet law at the time, it was obliged to pay the costs it incurred in accommodating its employees while they remained in Moscow and in transporting them home. The law allegedly required Selkhozpromexport to provide "living premises rent in case of compelled delay traveling within the U.S.S.R. according to rates set for the rent of premises during business trip within the U.S.S.R.".

512. Selkhozpromexport submitted as evidence of its losses schedules of the evacuees, Iraqi Police Registration forms for employees working on the Sulaimaniya Silo Project together with a letter from Selkhozpromexport identifying the employees working on the project, payroll records for August

and December 1990 for the Sulaimaniya Silo Project and back-up documentation recording work performed by specialists on the Drain Project from May through October 1990, a letter from Aeroflot enclosing invoices in the amount of SUR 300,000 together with copies of a payment order and a bank statement evidencing debit of SUR 300,000, and a balance sheet for expenses incurred under both projects in respect of air tickets, luggage, and accommodation and transport expenses.

513. Selkhozpromexport submitted audited accounts and a spreadsheet as evidence of the alleged hotel and other expenses incurred in maintaining its employees in Moscow.

514. The Panel finds that under the terms of the Drain Construction contract, the Employer was responsible for the cost of repatriating Selkhozpromexport's specialists and their dependants to Moscow following completion of the project. Hence, those costs incurred by Selkhozpromexport in evacuating its specialists and their dependants from the Drain Construction Project for which Selkhozpromexport provided proof of payment are compensable. Selkhozpromexport provided proof of payment on 5 November 1990 of SUR 300,000 to Aeroflot comprising SUR 60,203 for transporting 85 adults and 7 children, as well as excess luggage from Baghdad to Moscow, and SUR 239,797 as advance payments for transporting 400 passengers and 32,000 kg of baggage.

515. The Panel recommends compensation in the amount of USD 500,000, which represents the United States dollar equivalent of the alleged costs of SUR 300,000 on 5 November 1990.

516. The Panel recommends no compensation for the payment or relief to others allegedly incurred in connection with the Sulaimaniya Silo Project as Selkhozpromexport has not provided sufficient evidence that the costs incurred were extraordinary or temporary in nature.

517. The Panel recommends no compensation for losses relating to hotel and other expenses incurred in Moscow, transportation of the employees to their homes and airport tax as Selkhozpromexport has failed to provide adequate proof of payment of the alleged costs.

3. Recommendation

518. The Panel recommends compensation in the amount of USD 500,000 for payment or relief to others.

F. Other losses

1. Facts and contentions

519. Selkhozpromexport seeks compensation in the amount of IQD 174,364 for contract losses incurred by its Iraqi subcontractor in connection with the Sulaimaniya Silo Project. Selkhozpromexport stated that of the total claimed amount of IQD 269,728, it paid the Iraqi subcontractor an amount of IQD 200,000, which Selkhozpromexport was satisfied it owed to the Iraqi subcontractor for all its alleged losses. Some of the claimed amount has been reclassified as loss of tangible property as it relates to the alleged theft of the Iraqi subcontractor's property.

520. Selkhozpromexport also seeks compensation of USD 20,819 for costs, including insurance costs of IQD 435, it allegedly incurred in hiring two guards to protect the Sulaimaniya Silo Project site, following Selkhozpromexport's evacuation from Iraq, from January 1991 to April 1992. According to Selkhozpromexport's agreement with its Iraqi subcontractor, the Iraqi subcontractor was obliged to provide guarding and monitoring of operations. Selkhozpromexport asserted, however, that this did not extend to providing security after operations on site had ceased. Selkhozpromexport deemed it necessary, in any case, to retain further security for the site.

2. Analysis and valuation

521. The Panel recommends no compensation for the alleged loss incurred by the Iraqi subcontractor. Pursuant to Security Council resolution 687 and Governing Council decision 7, Iraqi entities shall not be compensated for losses incurred as a result of Iraq's invasion and occupation of Kuwait.

522. Selkhozpromexport submitted copies of time sheets in support of its claim for the cost of security guards, but failed to provide proof of payment to the security guards.

523. The Panel recommends no compensation for the alleged cost of hiring the security guards as Selkhozpromexport has failed to provide sufficient evidence in support of its alleged losses.

524. Selkhozpromexport failed to provide proof of payment of the alleged insurance costs. The Panel recommends no compensation for the alleged cost of insurance as Selkhozpromexport has failed to provide sufficient evidence in support of its alleged loss.

3. Recommendation

525. The Panel recommends no compensation of other losses.

G. Recommendation for Selkhozpromexport

Table 30. RECOMMENDED COMPENSATION FOR SELKHOZPROMEXPORT

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	14,141,451	2,733,105
Loss of profits	527,074	nil
Real property losses	340,248	nil
Loss of tangible property	509,613	69,529
Payment or relief to others	1,242,733	500,000
Other losses	580,317	nil
Interest	4,521,318	nil
TOTAL	21,862,754	3,302,634

526. Based on its findings regarding Selkhozpromexport's claim, the Panel recommends compensation in the amount of USD 3,302,634.

XX. CLAIMS OF ENERGOPROJEKT HIDROINŽENJERING CONSULTING ENGINEERS CO. LTD.

527. Energoprojekt Hidroinženjering Consulting Engineers Co. Ltd. ("Energoprojekt"), a joint stock company incorporated in Yugoslavia, is involved in design, consulting and engineering services for hydropower, water economy and infrastructural plants. Energoprojekt seeks compensation of USD 26,172,434 for contract losses, loss of profits, loss of tangible property and interest in connection with three projects in Iraq, namely, the Badush (1) Dam, Badush (2) Dam and Mandawa Dam projects.

528. In its original submission, Energoprojekt sought compensation in the amount of USD 19,325,308 and subsequently amended the claim amount to USD 26,172,434.

Table 31. ENERGOPROJEKT'S CLAIMS

Claim element	Claim amount (USD)
Contract losses	9,352,558
Loss profit	5,920,482
Loss of tangible property	158,019
Interest	10,741,375
TOTAL	26,172,434

A. Contract losses

1. Facts and contentions

(a) Badush (1) Dam Project

529. Energoprojekt entered into a contract (the "contract") on 9 April 1988 with the Technical Corps for Special Projects (the "Employer") for the provision of consulting engineering services for the Badush (1) Dam Project (the "project") in Iraq. The Badush Dam is an earthfill dam located approximately 40km downstream of the Mosul Dam (or Saddam Dam). The total contract price was IQD 7,359,442. The contract price was later increased to IQD 7,644,338.

530. The services to be provided by Energoprojekt under the contract included the preparation or completion of the basic and final design, tender documents for mechanical and electrical works, detail design, "as built" drawings, on operation and maintenance manual, site investigation works and hydraulic model tests, construction management, shop inspection for hydro mechanical, mechanical and electrical equipment and the training of Iraqi staff. Provision of the services was scheduled to commence on 9 April 1988 and was due to be completed in 48 months. The contract priced the services according to the type of service rendered. The total contract amount was to

be paid on the submission to the Employer of monthly invoices. The Employer was obliged to discharge the amounts within 45 days of submission of the monthly invoices failing which they were deemed to have been accepted.

531. The total contract price was payable in United States dollars and Iraqi dinar in the ratio of 60:40 with the exception of work performed in Yugoslavia for which Energoprojekt was entitled to be paid entirely in United States dollars. The Employer was granted a credit arrangement in respect of part of the United States dollar portion. The credit terms afforded to the Employer were a one year grace period with payment over four years at five per cent interest per annum. The Employer also made cash advance payments to Energoprojekt, which were to be recouped by deducting an equal amount from each of the first 40 monthly invoices.

532. The provision of services commenced as scheduled and was in progress on 2 August 1990. At that time, Energoprojekt had submitted 36 invoices to the Employer for its approval. Energoprojekt continued working on the project until January 1991, whereafter further performance of the contract became impossible as Energoprojekt had evacuated all personnel. During this time, Energoprojekt submitted five more invoices covering consultancy services provided from August to December 1990. All of these invoices, save the last one, invoice number 41, were approved by the Employer.

533. Energoprojekt began the repatriation of its employees immediately after 2 August 1990. By 31 August 1990, approximately one half of the 52 personnel who were on site had been evacuated. Energoprojekt completed the process of repatriation by January 1991.

534. Energoprojekt attributed its losses to Iraq's invasion and occupation of Kuwait as it result in the forced evacuation of its employees, which made it impossible to continue after 7 January 1991.

535. Energoprojekt seeks compensation of USD 7,296,904 for the total amount of unpaid invoices less the amount of payments, including advance payments, received from the Employer.

(b) Badush (2) Dam Project

536. Energoprojekt entered into a contract (the "contract") on 16 February 1989 with the Technical Corps for Special Projects (the "Employer") for the provision of consulting engineering services for the Badush (2) Dam Project in Iraq. The contract was concluded as an Annex to the Badush (1) Dam contract. The total contract price was IQD 2,557,829. This amount was later increased to IQD 2,655,402.

537. The services to be provided under the contract included the preparation or carrying out of the basic and final design, tender documents for mechanical and electrical works, detail design, "as built" drawings, on operation and maintenance manual, site investigation works and hydraulic

model tests, construction management, shop inspection for hydro mechanical and mechanical and electrical equipment. The services were priced according to the type of service rendered to the Employer. The total contract amount was to be paid on the submission to the Employer of monthly invoices. The Employer was obliged to discharge the amounts within 45 days of submission of the monthly invoices, failing which, they were deemed to have been accepted.

538. The payment terms for the services rendered under the Badush (2) Dam Project were the same as for the Badush (1) Dam Project in all material respects.

539. Provision of the services was scheduled to commence on 16 February 1989 and was due to be completed in 40 months.

540. The provision of services commenced as scheduled and was in progress on 2 August 1990. At that stage, Energoprojekt had submitted 17 invoices to the Employer for its approval.

541. Energoprojekt continued working on the project until the end of September 1990, whereafter, it alleged, further performance of the contract became impossible. During that time, Energoprojekt submitted two more invoices covering consultancy services provided from August to September 1990. Each of these invoices was approved by the Employer.

542. Energoprojekt stated that it began the repatriation of its employees immediately after 2 August 1990. By October 1990 the process of repatriation from the Badush (2) Project had been completed.

543. Energoprojekt attributed its losses to Iraq's invasion and occupation of Kuwait as it resulted in the forced evacuation of its employees, which made it impossible to continue after September 1990.

544. Energoprojekt seeks compensation of USD 1,061,182 for the total amount of unpaid invoices less the amount of payments, including advance payments, received from the Employer.

(c) Mandawa Dam Project

545. Energoprojekt and an Iraqi entity, the Dijla Center for Studies and Designs ("Dijla"), entered into a contract (the "contract") on 11 July 1989 with the Ministry of Agriculture and Irrigation, State Commission for Dams (the "Employer") for the provision of consulting engineering services for the Mandawa Dam Project in Iraq. The Mandawa Dam is located 40 km downstream of the Bekhme Dam. Its purpose was to act as a regulating dam for water released from the Bekhme Dam. The total value of the contract was IQD 4,682,668.

546. On 29 September 1989, Energoprojekt and Dijla entered into a joint venture agreement whereby they agreed to form a joint venture for the provision of consulting engineering services for and completion of works on the Mandawa Dam Project in accordance with the terms of the contract. The joint venture agreement governed the distribution of work and revenues under the contract. It was agreed that Dijla would perform approximately 26 per cent of the work and that Energoprojekt would perform approximately 74 per cent. These figures varied for certain phases of the contract. Energoprojekt was to receive payment of 81 per cent of the value of the contact and Dijla was to receive the remaining 19 per cent. Energoprojekt asserted that it is only seeking compensation for its share of the alleged losses relating to the Mandawa Dam Project.

547. Work under the contract was scheduled to commence on 11 July 1989 and was due to be completed in 70 months. The scope of the services was organized into three distinct phases. Phase I involved the completion of a planning report and site investigation works. Phase II involved the design and preparation of tender documentation and completion of hydraulic model tests. Phase III involved the completion of a detailed design of the dam and various supervisory services during the course of the Dam's construction as set out in one of the appendices to the contract.

548. The value of the works was usually priced on a lump sum basis with the exception of the site investigation works, which were measured at agreed unit rates, and checking materials, which were to be paid on a "trip" basis. The total contract amount was to be paid on the submission to the Employer of monthly invoices. The Employer was obliged to discharge the amounts within sixty days of submission of the relevant monthly invoice, failing which, they were deemed to have been accepted.

549. The total contract price was payable in United States dollars and Iraqi dinar in the ratio of 64.85:35.15. The United States dollar portion was to be paid: 10 per cent cash advance payment and the remaining 90 per cent: 40 per cent in cash; and 50 per cent on a credit basis. The credit terms afforded to the Employer for the payment of the 50 per cent United States dollar portion were a one year grace period and payment over four years subject to 5 per cent interest per annum. The Central Bank of Iraq guaranteed payment of the United States dollar portion up to IQD 739,527 for Phases I and II, and IQD 778,926 for Phase III. The Iraqi dinar portion was to be paid: 10 per cent advance payment; and 90 per cent through invoices.

550. Work commenced as scheduled and was in progress on 2 August 1990. It was recorded by means of monthly invoices. Energoprojekt submitted five such invoices prior to 2 August 1990 covering services provided to the Employer from July 1989 to April 1990.

551. By 2 August 1990, all of Phase I had been completed with the exception of the final planning report of which only 10 per cent had been completed. None of Phase II had been completed. With reference to Phase III,

Energoprojekt asserted that it had 40 personnel engaged in "other relevant services" in Yugoslavia.

552. Energoprojekt attributed its losses to Iraq's invasion and occupation of Kuwait as it resulted in the forced evacuation of its employees.

553. Energoprojekt seeks compensation of USD 994,472 for the total amount of unpaid invoices less the amount of payments, including advance payments, received from the Employer.

2. Analysis and valuation

554. Energoprojekt submitted for each of the projects a copy of the contract and the contract conditions, monthly invoices/applications for payment, activity summary sheets and various schedules containing financial analyses of the amounts paid and due to Energoprojekt.

555. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Energoprojekt had, in each case, a contract with Iraq.

556. The Panel finds that for the purposes of Security Council resolution 687 (1991) the deferred payments agreement afforded to the Employers under each contract did not serve to novate the debt.

(a) Badush (1) Dam Project

557. The Panel finds that losses incurred in connection with the amount of USD 6,593,900 due under invoice numbers 1 to 33 relate to services performed prior to 2 May 1990 and, therefore, are outside the jurisdiction of the Commission.

558. The Panel finds that the failure of the Employer to pay the amount of USD 1,592,219 due under invoice numbers 34 to 41 was a direct result of Iraq's invasion and occupation of Kuwait.

559. The Panel recommends compensation of USD 703,004 for the losses incurred by Energoprojekt in connection with the failure of the Employer to pay the full amount of invoice numbers 34 to 41.

560. The amount of USD 703,004 recommended for compensation represents the total amount of USD 1,592,219 owed to Energoprojekt under invoice numbers 34 to 41 less advance payments in the amount of USD 889,215, which the Employer did not recover. This approach is in line with that adopted in the Panel's Report and Recommendations concerning the Sixth Instalment of "E3" claims (S/AC.26/1999/3) where the Panel found that the advances paid by the Employer, but unrecovered, should be deducted from the recommended compensation amounts.

(b) Badush (2) Dam Project

561. The Panel finds that losses incurred in connection with the amount of USD 1,340,008 due under invoice numbers 1 to 14 relate to services performed prior to 2 May 1990 and, therefore, are outside the jurisdiction of the Commission.

562. The Panel finds that the failure of the Employer to pay the amount of USD 399,836 due under invoice numbers 15 to 19 was a direct result of Iraq's invasion and occupation of Kuwait.

563. The Panel finds that the losses incurred by Energoprojekt in connection with the failure of the Employer to pay the amount of USD 399,836 due under invoice numbers 15 to 19 are compensable in principle.

564. The Panel, however, recommends no compensation as the compensable amount of USD 399,836 is exceeded by the total amount of advance payments of USD 678,662, which the Employer did not recover in respect of this project.

(c) Mandawa Dam Project

565. The Panel finds that the alleged losses of USD 994,472 incurred in connection with unpaid amounts under all of the 5 invoices relate to services performed prior to 2 May 1990 and, therefore, are outside the jurisdiction of the Commission.

3. Recommendation

566. The Panel recommends compensation in the amount of USD 703,004 for contract losses.

B. Loss of profits

1. Facts and contentions

567. Energoprojekt seeks compensation of USD 3,907,290 for loss of profits it expected to earn from the remainder of all three projects. Energoprojekt also seeks compensation of USD 2,013,192 for the overhead costs it failed to recover in respect of all three projects. This aspect of the claim was classified by Energoprojekt under contract losses. However, considering that overhead costs and profit margins are inextricably linked, the Panel has reviewed the claim for loss of overheads together with the claim for loss of profits.

568. In its original claim, Energoprojekt calculated its loss of profits at 11 per cent of the gross earnings on each of the three projects. In a supplement submitted to the Commission in March 1998, Energoprojekt revised the net profit margin to 20.2 per cent of remaining gross fees under the contract for the Badush (1) Dam Project, 19.2 per cent for the Badush (2)

Dam Project and 18.9 per cent for the Mandawa Dam Project. Energoprojekt based these revisions on "Techno Economic Programmes" (the "TEP's"), which, it stated, it prepared in 1988 and 1989 for the purposes of evaluating possible expenses, earnings and revenues in connection with the contracts. The TEP's calculated a profit margin on the basis of the average profit margin Energoprojekt allegedly earned on other projects in Iraq.

569. Energoprojekt seeks compensation of USD 2,013,192 for the overhead costs it failed to recover from the three projects. Energoprojekt stated that in order to successfully execute the project it was necessary to mobilize a large team of specialist personnel and other resources at its headquarters in Belgrade and also on site in Iraq. Energoprojekt asserted that in each contract, provision was made for the contract to contribute to the overhead costs of its Belgrade headquarters in the amount of 10 per cent of the total contract value. It expected to recover these costs through the monthly progress payments over the lifetime of each contract. Energoprojekt alleged that its forced withdrawal from Iraq caused it a severe under-recovery of these costs.

570. Energoprojekt also asserted that following the repatriation of staff from its Iraqi site office for the Badush (1) and (2) Dam Projects, it had to lay them off for an average period of 6 months at a cost of USD 862,680.

571. With respect to the Mandawa Dam Project, Energoprojekt's original claim for loss of profits and overheads was overstated as it had included Dijla's share in the value of the uncompleted parts of the contract. Energoprojekt subsequently revised its claim to exclude the value of Dijla's share in the value of the uncompleted parts of the contract.

572. In its reply to a claim development letter, Energoprojekt acknowledged that it was six months behind schedule on the Mandawa Dam Project.

2. Analysis and valuation

573. Energoprojekt provided as evidence of its alleged losses copies of the TEP's for the Badush (1) and (2) Dam Projects, a statement that it was management policy that 10 per cent of the contract price was to be contributed towards head office overheads, a list of employees that were evacuated from Iraq including an estimate of their salaries, audited accounts for 1988 to 1990 and a schedule of profit margins allegedly earned on other projects in Iraq.

574. The Panel finds that Energoprojekt did not provide sufficient information or documentation to enable it to make valid comparisons between previous projects in Iraq and the three projects. The sales figures were recorded differently in the accounts from year to year and Energoprojekt did not attempt to reconcile the accounts with the projected figures in the TEP's.

575. With respect to the Mandawa Dam project, Energoprojekt had only completed 20 per cent of the project and still had four and three quarter years of the project to complete. Furthermore, Energoprojekt acknowledged that it was six months behind schedule. Hence, there was a significant risk of non-achievement of profit.

576. The Panel recommends no compensation for loss of profits as the claimant has failed to provide sufficient evidence to support its claim.

577. In its previous reports, the Panel has found that overheads for head offices are costs that are not separate items that are chargeable to the Employer. In commercial contracts such as the contracts at issue, the overheads are part of the non-recoverable items that are included in the rates charged by the contractor. As stated by Energoprojekt, the costs were expected to be recovered from the payments made under the interim certificates.

578. The Panel recommends no compensation for overheads.

3. Recommendation

579. The Panel recommends no compensation for loss of profits or overheads.

C. Loss of tangible property

1. Facts and contentions

580. Energoprojekt seeks compensation of USD 158,019 for loss of tangible property as follows:

Alleged loss item	Project	Claimed amount (USD)
Loss of equipment	Badush (1) Dam Project	37,821
Loss of equipment	Badush (2) Dam Project	1,284
Loss of equipment, rubber boats and vehicles	Mandawa Dam Project	118,914
TOTAL		158,019

581. Energoprojekt stated that following the evacuation of its employees from Iraq, it left behind unguarded equipment on site and in "rest houses" in Baghdad and Mosul. Energoprojekt asserted that according to unofficial information it received most of the equipment was destroyed or stolen.

2. Analysis and valuation

582. Energoprojekt submitted a list of equipment left behind at each project site, which includes a description of each item, its related invoice number and date and value in the original currency and United States dollars as evidence of its alleged losses. Energoprojekt also provided copies of purchase invoices, receipts and cheques together with translations thereof. All of these documents were dated prior to 2 August 1990.

583. The Panel finds that Energoprojekt has demonstrated a compensable loss in respect of the equipment purchased in Iraq. Energoprojekt has established that it departed from Iraq during the relevant time period and has demonstrated its ownership of the equipment in Iraq prior to 2 August 1990.

584. The Panel finds the equipment was unlikely to be transferred and used in connection with other projects. Therefore, the value of the equipment has been depreciated over the lifetime of the contract.

585. The Panel recommends compensation of USD 44,736 for loss of the equipment purchased in Iraq, as follows:

Alleged loss item	Project	Claimed amount (USD)	Amount recommended for compensation (USD)
Loss of equipment	Badush (1) Dam project	37,821	22,506
Loss of equipment	Badush (2) Dam project	1,284	1,071
Loss of equipment, rubber boats and vehicles	Mandawa Dam project	118,914	21,159
TOTAL		158,019	44,736

586. Despite being requested to do so, Energoprojekt failed to provide importation documentation to prove the importation of the rubber boats and vehicles, which it had purchased outside of Iraq. It only provided a copy of minutes of a workers' council meeting according to which the council retroactively approved the purchase of the rubber boats and the vehicles. However, the details of the vehicles recorded in the minutes are not consistent with the alleged loss items.

587. The Panel recommends no compensation for the alleged loss of the rubber boats and the vehicles as Energoprojekt failed to provide sufficient evidence in support of its alleged losses.

3. Recommendation

588. The Panel recommends compensation in the amount of USD 44,736 for loss of tangible property.

D. Recommendation for Energoprojekt

Table 32. RECOMMENDED COMPENSATION FOR ENERGOPROJEKT

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	9,352,558	703,004
Loss of profits	5,920,482	nil
Loss of tangible property	158,019	44,736
Interest	10,741,375	nil
TOTAL	26,172,434	747,740

589. Based on its findings regarding Energoprojekt's claim, the Panel recommends compensation in the amount of USD 747,740.

XXI. RECOMMENDATIONS

590. Based on the foregoing, the Panel recommends the following amounts of compensation for direct losses suffered by the claimants as a result of Iraq's invasion and occupation of Kuwait:

a. INTEGRA BAAC: NIL;

b. GIK Hidrogradnja: USD 1,660,599;

c. Transkomplekt Ltd.: USD 4,566;

d. Ingra d.d.: USD 3,187,778;

e. ABB Schaltanlagen GmbH: USD 155,049;

f. Asea Brown Boveri AG: NIL;

g. Hochtief Aktiengesellschaft vorm. Gebr. Helfmann: NIL;

h. Heilit & Woerner Bau AG: NIL;

i. Strabag AG: NIL;

j. Hindustan Construction Company Limited: NIL;

k. U.P. State Bridge Corporation Limited: NIL;

l. Gammon India Limited: NIL;

m. F.lli Delfino S.p.A.: NIL;

n. SICOM S.p.A.: NIL;

o. VVO Selkhozpromexport: USD 3,302,634;

p. Energoprojekt Hidroinženjering Consulting Engineers Co. Ltd.: USD 747,740.

Geneva, 13 December 1999

(*Signed*) Mr. Werner Melis
Chairman

(*Signed*) Mr. David Mace
Commissioner

(*Signed*) Mr. Sompong Sucharitkul
Commissioner

Annex VII

Decision concerning the seventh instalment of E3 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the seventh instalment of "E3" claims, covering 18 claims, [1]; and a request from the Russian Federation for the withdrawal of one claim included in the Panel's report,

1. Approves the recommendations made by the panel of Commissioners, with the exception of the one withdrawn claim and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report, with the exception of the one withdrawn claim. The aggregate amounts per country, based on the recommendations contained in paragraph 590 of the report, are as follows:

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* Previously issued as document S/AC.26/Dec.88 (2000).

[1] The text of the report appears in document S/AC.26/2000/3 (annex VI above).

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Bosnia and Herzegovina	1	1	43,973,834	1,660,599
Bulgaria	1	-	60,668,364	4,566
Croatia	1	-	52,209,617	3,187,778
Germany	1	4	811,727,398	155,049
India	-	3	30,079,271	nil
Italy	-	2	1,679,402	nil
Yugoslavia, Federal Republic of	3	-	26,172,434	747,740
Total	7	10	1,026,510,320	5,755,732

3. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)),

4. Recalls that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

5. Takes note of the withdrawal of the claim submitted by the Russian Federation, which was received after the panel signed the report and submitted its report and recommendations to the Governing Council, and

6. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to each respective Government.

Annex VIII

Report and recommendations made by the Panel of Commissioners concerning the eleventh instalment of E3 claims*

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* Previously issued as document S/AC.26/2000/4.

CONTENTS

		Paragraphs	Page
Introduction		1 - 2	341
I.	PROCEDURAL HISTORY	3 - 13	341
	A. The nature and purpose of the proceedings	3 - 4	341
	B. The procedural history of the claims in the eleventh instalment	5 - 12	342
	C. The claimants	13	343
II.	LEGAL FRAMEWORK	14 - 30	345
	A. Applicable law	14	345
	B. Liability of Iraq	15	345
	C. The "arising prior to" clause	16 - 17	345
	D. Application of the "direct loss" requirement	18 - 23	346
	E. Date of loss	24	347
	F. Currency exchange rate	25 - 27	348
	G. Interest	28 - 29	348
	H. Claim preparation costs	30	348
III.	RECURRENT ISSUES	31 - 64	349
	A. Evidence of loss	31 - 41	349
	B. Amending claims after filing	42 - 44	351
	C. Contract losses	45 - 51	351
	D. Claims for "lost profits"	52 - 57	353
	E. Tangible property	58 - 59	354
	F. Payment or relief to others	60 - 64	354
IV.	NON-RESPONDING CLAIMANTS	65 - 73	355
V.	CLAIM OF ABU AL-ENAIN & JASTANIAH CO., LTD.	74 - 100	359
	A. Contract losses	77 - 83	359
	B. Loss of profits	84 - 85	360
	C. Payment or relief to others	86 - 90	360
	D. Financial losses	91 - 99	361
	E. Recommendation for Abu Al-Enain	100	362
VI.	CLAIM OF Al-Ghurery COMPANY FOR TRADING AND CONTRACTING	101 - 121	363
	A. Contract losses (Project A)	104 - 119	363
	B. Project B contract losses	120	367
	C. Recommendation for Al-Ghurery	121	367
VII.	CLAIM OF AL HARBI TRADING AND CONTRACTING CO. LTD	122 - 129	368

VIII. CLAIM OF AL-HUGAYET TRADING & CONTRACTING EST. . . . 130 - 170 370
- A. Loss of profits . . . . 135 - 145 370
- B. Payment or relief to others . . . . 146 - 169 372
- C. Recommendation for Al-Hugayet 170 375

IX. CLAIM OF ARABIAN LAMAH CO. LTD. . . . . 171 - 179 376

X. CLAIM OF CHIYODA PETROSTAR LTD. . . . . 180 - 191 378
- A. Facts and contentions . . . . 184 - 187 378
- B. Analysis and valuation . . . . 188 - 190 379
- C. Recommendation for Chiyoda 191 379

XI. CLAIM OF GUSTAV EPPLE ARABIA LIMITED . . . . 192 - 200 380

XII. CLAIM OF MOHAMMED A. AL-SWAILEM CO. LTD FOR COMMERCE & CONT. 201 - 214 382
- A. Facts and contentions . . . . 205 - 209 382
- B. Analysis and valuation . . . . 210 - 213 383
- C. Recommendation for Al-Swailem 214 383

XIII. CLAIM OF NESMA & AL FADL CONTRACTING CO. LTD. . . . 215 - 221 384

XIV. CLAIM OF SAUDI ARABIAN SAIPEM LIMITED . . . . 222 - 239 385
- A. Contract losses . . . . 224 - 229 385
- B. Financial losses . . . . 230 - 234 386
- C. Payment or relief to others . . . . 235 - 238 386
- D. Recommendation for Saudi Saipem 239 387

XV. SUMMARY OF RECOMMENDED COMPENSATION BY CLAIMANT . 240 388

LIST OF TABLES

Page

1. Non-responding claimants 358

2. Miscellaneous losses alleged by Al-Ghurery . . . 364

3. Loss of output alleged by Al-Ghurery 364

4. Losses alleged by Al Harbi 368

5. Losses alleged by Epple 380

6. Recommended compensation for the eleventh instalment 388

Introduction

1. The Governing Council of the United Nations Compensation Commission (the "Commission") appointed the present Panel of Commissioners (the "Panel"), composed of Messrs. John Tackaberry (Chairman), Pierre Genton and Vinayak Pradhan, at its twenty-eighth session in June 1998, to review construction and engineering claims filed with the Commission on behalf of corporations and other legal entities in accordance with the relevant Security Council resolutions, the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules") and other Governing Council decisions. This report contains the recommendations to the Governing Council by the Panel, pursuant to article 38(e) of the Rules, concerning nineteen claims included in the eleventh instalment. Each of the claimants seeks compensation for loss, damage or injury allegedly arising directly out of Iraq's 2 August 1990 invasion and subsequent occupation of Kuwait.

2. Each of the claimants had the opportunity to provide the Panel with information and documentation concerning the claims. The Panel has considered evidence from the claimants and the responses of Governments to the reports of the Executive Secretary issued pursuant to article 16 of the Rules. The Panel has retained consultants with expertise in valuation and in construction and engineering. The Panel has taken note of certain findings by other Panels of Commissioners, approved by the Governing Council, regarding the interpretation of relevant Security Council resolutions and Governing Council decisions. The Panel was mindful of its function to provide an element of due process in the review of claims filed with the Commission. Finally, the Panel has further amplified both procedural and substantive aspects of the process of formulating recommendations in its preamble to its consideration of the individual claims.

I. PROCEDURAL HISTORY

A. The nature and purpose of the proceedings

3. The status and functions of the Commission are set forth in the report of the Secretary-General pursuant to paragraph 19 of Security Council resolution 687 (1991) dated 2 May 1991 (S/22559).

4. The Panel is entrusted with three tasks in the present proceedings. First, the Panel is required to determine whether the various types of losses alleged by the claimants are within the jurisdiction of the Commission, i.e., whether the losses were caused directly by Iraq's invasion and occupation of Kuwait. Second, the Panel has to verify whether the alleged losses that are in principle compensable have in fact been incurred by a given claimant. Third, the Panel is required to determine whether these compensable losses were incurred in the amounts claimed, and if not, the appropriate quantum for the loss based on the evidence before the Panel.

B. The procedural history of the claims in the eleventh instalment

5. The claims submitted to the Panel in this instalment and addressed in this report were selected by the secretariat of the Commission from among the construction and engineering claims (the "'E3' Claims") on the basis of established criteria. These include the date of filing and compliance by claimants with the requirements established for claims submitted by corporations and other legal entities (the "category 'E' claims").

6. On 8 September 1999, the Panel issued a procedural order relating to the claims. The Panel decided to complete its review of the claims within 180 days of the date of its procedural order, in accordance with article 38(c) of the Rules.

7. In view of the review period and the available information and documentation the Panel determined that it was able to evaluate the claims without additional information or documents from the Government of Iraq. Nonetheless, due process, the provision of which is the responsibility of the Panel, has been achieved by the insistence of the Panel on the observance by claimants of the article 35(3) requirement for sufficient documentary and other appropriate evidence.

8. Prior to presenting the eleventh instalment to the Panel, the secretariat performed a preliminary assessment of each claim in order to determine whether the claim met the formal requirements established by the Governing Council in article 14 of the Rules. For those claims that did not meet the formal requirements, each claimant was notified of the deficiencies and invited to provide the necessary information pursuant to article 15 of the Rules (the "article 15 notification").

9. Further, a review of the legal and evidentiary basis of each claim identified specific questions as to the evidentiary support for the alleged loss. It also highlighted areas of the claim in which further information and documentation was required. Consequently, questions and requests for additional documentation were transmitted to the claimants pursuant to article 34 of the Rules (the "article 34 notification"). Upon receipt of the responses and additional documentation, a detailed factual and legal analysis of each claim was conducted.

10. That analysis brought to light the fact that many claimants lodged little material of a genuinely probative nature when they initially filed their claims. It also appears that many claimants did not retain relevant documentation and were unable to provide it when asked for it. Finally, many claimants did not respond to requests for further information and evidence. The consequence has inevitably been that for a large number of loss elements the Panel has been unable to recommend any compensation.

11. The Panel performed a thorough and detailed factual and legal review of the claims. The Panel has assumed an investigative role that goes

beyond reliance merely on information and argument supplied with the claims as presented. After a review of the relevant information and documentation, the Panel made initial determinations as to the compensability of the loss elements of each claim. Next, reports on each of the claims were prepared focusing on the appropriate valuation of each of the compensable losses, and on the question of whether the evidence produced by the claimant was sufficient in accordance with article 35(3) of the Rules. The cumulative effect was one of the following: (a) a recommendation of full compensation for the alleged loss; (b) an adjustment to the amount of the alleged loss; or (c) a recommendation of no compensation.

12. In drafting this report, the Panel has not included specific citations from restricted or non-public documents that were produced or made available to it for the completion of its work.

C. The claimants

13. This report contains the Panel's findings with respect to the following claims of business entities organised under the laws of the Kingdom of Saudi Arabia for losses allegedly caused by Iraq's invasion and occupation of Kuwait:

(a) Abahsain Secem Limited for Electrical Works, which seeks compensation in the amount of USD 1,945,268;

(b) Abu Al-Enain & Jastaniah Co., Ltd., which seeks compensation in the amount of USD 3,679,049;

(c) Al-Ghurery Company for Trading and Contracting, which seeks compensation in the amount of USD 5,060,308;

(d) Al Harbi Trading and Contracting Co. Ltd., which seeks compensation in the amount of USD 1,722,883;

(e) Al-Hugayet Trading & Contracting Est., which seeks compensation in the amount of USD 1,198,880;

(f) Ali Awad Al-Qahtani & Bros. Co. (Claim 1), which seeks compensation in the amount of USD 218,034;

(g) Alissa Chemaco Co., Ltd., which seeks compensation in the amount of USD 1,564,187;

(h) Al Taif Company for Operation-Maintenance and Contracting Limited, which seeks compensation in the amount of USD 3,636,614;

(i) Arabian Lamah Co. Ltd., which seeks compensation in the amount of USD 5,120,981;

(j) Awrad United Trading Co. Ltd., which seeks compensation in the amount of USD 614,361;

(k) Chiyoda Petrostar Ltd., which seeks compensation in the amount of USD 20,734,289;

(l) Gustav Epple Arabia Limited, which seeks compensation in the amount of USD 3,989,842;

(m) Metito Arabia Industries Limited, which seeks compensation in the amount of USD 425,610;

(n) Mohammed A. Al-Swailem Co. Ltd. for Commerce & Cont., which seeks compensation in the amount of USD 1,880,725;

(o) Nesma & Al Fadl Contracting Co. Ltd., which seeks compensation in the total amount of USD 4,486;

(p) Saudi Amoudi Group Co., Ltd., which seeks compensation in the amount of USD 630,848;

(q) Saudi Arabian Saipem Limited, which seeks compensation in the amount of USD 3,941,807;

(r) Saudi Letco Co., Ltd., which seeks compensation in the amount of USD 654,205; and

(s) Trans Middle East Co. for Trading & Contracting, which seeks compensation in the amount of USD 465,878.

These amounts claimed in USD represent the alleged loss amounts after correction for applicable exchange rates as described in paragraphs 25 to 27, infra.

II. LEGAL FRAMEWORK

A. Applicable law

14. As set forth in paragraphs 17 and 18 of the Report and Recommendations Made by the Panel of Commissioners Concerning the Fourth Instalment of "E3" Claims (S/AC.26/1999/14) (the "Fourth Report"), the Panel determined that paragraph 16 of Security Council resolution 687 (1991) reaffirmed the liability of Iraq and defined the jurisdiction of the Commission. Pursuant to article 31 of the Rules, the Panel applied Security Council resolution 687 (1991), other relevant Security Council resolutions, decisions of the Governing Council, and, where necessary, other relevant rules of international law.

B. Liability of Iraq

15. As set forth in paragraph 20 of the Fourth Report, the Panel determined that "Iraq" as used in decision 9 (S/AC.26/1992/9) means the Government of Iraq, its political subdivisions, or any agency, ministry, instrumentality or entity (notably public sector enterprises) controlled by the Government of Iraq.

C. The "arising prior to" clause

16. In its Fourth Report, the Panel found that:

(a) the phrase "without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through normal mechanisms" was intended to have an exclusionary effect on the Commission's jurisdiction, i.e., such debts and obligations are not compensable by the Commission;

(b) the limitation contained in the clause "arising prior to 2 August 1990" was intended to leave unaffected the debts and obligations of Iraq which existed prior to Iraq's invasion and occupation of Kuwait; and

(c) the terms "debts" and "obligations" should be given the customary and usual meanings applied to them in ordinary discourse.

17. Thus, the Panel finds for the claims included in this report that a loss relating to a "debt or obligation [of Iraq] arising prior to 2 August 1990" means a debt and/or obligation that is based on work performed or services rendered prior to 2 May 1990 and that such loss is outside the jurisdiction of the Commission. See Fourth Report, paragraphs 21 - 23

D. Application of the "direct loss" requirement

18. Paragraph 21 of Governing Council decision 7 (S/AC.26/1991/7) is the seminal rule on "directness" for category "E" claims. It provides in relevant part that compensation is recoverable for:

> "... any direct loss, damage, or injury to corporations and other entities as a result of Iraq's unlawful invasion and occupation of Kuwait. This will include any loss suffered as a result of:

(a) Military operations or threat of military action by either side during the period 2 August 1990 to 2 March 1991;

(b) Departure of persons from or their inability to leave Iraq or Kuwait (or a decision not to return) during that period;

(c) Actions by officials, employees or agents of the Government of Iraq or its controlled entities during that period in connection with the invasion or occupation;

(d) The breakdown of civil order in Kuwait or Iraq during that period; or

(e) Hostage-taking or other illegal detention."

19. Each of the claimants in this report allege losses with respect to activities within the Kingdom of Saudi Arabia. The claimants allege that such losses are recoverable because the losses were suffered as a result of "[m]ilitary operations or threat of military action by either side during the period 2 August 1990 to 2 March 1991."

20. In its Report and Recommendations Made by the Panel of Commissioners Concerning the First Instalment of 'E2' Claims (S/AC.26/1998/7) (the "First E2 Report"), the "E2" Panel found:

> "The military operations that resulted in damage in Saudi Arabia were sporadic events that did not bring about the kind of systematic and thorough damage and injury inflicted by the military operations that took place all over Kuwait during the relevant period."
>
> ...
>
> "As regards the territory of Saudi Arabia, the evidence is clear that it was credibly threatened with military action by Iraq during the period 2 August 1990 to 2 March 1991. Not only did Iraq's President clearly articulate verbal threats against the territory of Saudi Arabia, but Iraqi forces were massed along the Saudi border and scud missiles were aimed at Saudi Arabia. These threats therefore meet the requirements of paragraph 21(a) of Governing Council decision 7

> since they were sufficiently credible and serious, and intimately connected to the relevant military operations. Indeed, actual military clashes between Iraqi ground forces and allied coalition forces, including Saudi Arabian troops, took place on Saudi Arabian soil, and actual scud missile attacks were inflicted on Saudi Arabia."
>
> "First E2" Report, paragraphs 157 and 162.

21. Adopting the findings of the "E2" Panel, this Panel finds that damage or loss suffered as a result of (a) military action in Saudi Arabia by either the Iraqi or the Allied Coalition Forces or (b) a credible and serious threat that was connected to Iraq's invasion and occupation of Kuwait is compensable in principle. Of course, the further the project in question was from the area where military operations were taking place, the more the claimant may have to do to establish causality. On the other hand, the potential that an event such as the invasion and occupation of Kuwait has for causing an extensive ripple effect cannot be ignored. At the end of the day, each case must depend on its facts.

22. As stated in the "First E2" Report,

> "[t]he Panel therefore concludes that a claimant seeking compensation for loss or damage arising out of the threat of military action must make a specific showing of how the loss or damage alleged was the direct result of a credible and serious threat that was intimately connected to Iraq's invasion and occupation of Kuwait. If such a showing is made, the claimant will have established the requisite causal link between the loss or damage alleged and Iraq's invasion and occupation of Kuwait."
>
> "First E2" Report, paragraph 163.

23. This finding regarding the meaning of "direct loss" is not intended to resolve every issue that may arise with respect to the Panel's interpretation of Governing Council decisions 7. Rather, this sets an initial parameter for the review and evaluation of the claims in the present report.

E. Date of loss

24. There is no general principle with respect to the date of loss. It needs to be addressed on an individual basis. In addition, the specific loss elements of each claim may give rise to different dates if analysed strictly. However, applying a different date to each loss element within a particular claim is impracticable as a matter of administration. Accordingly, the Panel has decided to determine a single date of loss for each claimant which in most cases coincides with the date of the collapse of the particular project. For purposes of the claims included in this

report, the Panel has concluded that the appropriate date of loss is the middle of January. Unless otherwise noted the Panel finds this to be 15 January 1991.

F. Currency exchange rate

25. While many of the costs incurred by the claimants were denominated in currencies other than United States dollars, the Commission issues its awards in that currency. Therefore the Panel is required to determine the appropriate rate of exchange to apply to losses expressed in other currencies.

26. The Panel finds that, as a general rule, the exchange rate set forth in the contract is the appropriate rate for losses under the relevant contracts because this was specifically agreed by the parties.

27. For losses that are not contract based, however, the contract rate is not usually an appropriate rate of exchange. For non-contractual losses, the Panel finds the appropriate exchange rate to be the prevailing commercial rate, as evidenced by the United Nations Monthly Bulletin of Statistics, at the date of loss.

G. Interest

28. On the issue of the appropriate interest rate to be applied, the relevant Governing Council decision is decision 16 (S/AC.26/1992/16). According to that decision, "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award". In decision 16 the Governing Council further specified that "[i]nterest will be paid after the principal amount of awards", while postponing any decision on the methods of calculation and payment.

29. The Panel recommends that interest shall run from the date of loss.

H. Claims preparation costs

30. Some claimants sought to recover compensation for the cost of preparing their claims. The compensability of claim preparation costs has not hitherto been ruled on and will be the subject, in due course, of a specific decision by the Governing Council. Accordingly, the Panel makes no recommendation with respect to costs of claim preparation in any of the claims where it is raised.

III. RECURRENT ISSUES

A. Evidence of loss

31. Pursuant to article 35(3) of the Rules, corporate claims must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and amount of the claimed loss. The Governing Council has stated in paragraph 5 of decision 15 that, with respect to business losses, there "will be a need for detailed factual descriptions of the circumstances of the claimed loss, damage or injury" in order to justify a recommendation for compensation. (S/AC.26/1992/15)

32. The Panel takes this opportunity to emphasise that what is required of a claimant by article 35(3) of the Rules is the presentation to the Commission of evidence that must go to both causation and quantum. The Panel's interpretation of what is appropriate and sufficient evidence will vary according to the nature of the claim. That standard is also affected by the fact that, in the case of the claims which are the subject of this report, Iraq's input is limited to the participation defined by article 16 of the Rules. In implementing this approach, the Panel applied the relevant principles extracted from those within the corpus of principles referred to in article 31 of the Rules.

1. Sufficiency of evidence

33. At the end of the day, claims that are not supported by sufficient and appropriate evidence fail. And in the context of the construction claims that are before this Panel, the most important evidence is documentary. It is in this context that the Panel records that a syndrome which it found striking when it addressed the claims included in the Fourth Report has continued to manifest itself in the claims included in this report. This was the reluctance of claimants to make critical documentation available to the Panel.

34. Imperatively, the express wording of decision 46 of the Governing Council requires that "... claims received in categories 'D', 'E', and 'F' must be supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and amount of the claimed loss...". In this same decision, the Governing Council decided that "...no loss shall be compensated by the Commission solely on the basis of an explanatory statement provided by the claimant...". (S/AC.26/1998/46)

35. The Panel notes that some of the claimants in this instalment sought to explain the lack of documentation by asserting that all the documentation was in areas of civil disorder and was destroyed, or, at least, cannot be accessed. Every single one of the claimants is or was based outside Iraq.

36. What is more, the absence of any relevant contemporary record to support a particular claim means that the claimant is inviting the Panel to make an award, often of millions of dollars, on no foundation other than the assertion of the claimant. This would not satisfy the "sufficient evidence" rule in article 35(3) of the Rules. It is something that the Panel is unable to do.

2. Sufficiency under article 35(3): The obligation of disclosure

37. Next in the context of the documentary evidence, this Panel wishes to highlight that claims must be supported by sufficient documentary and other appropriate evidence. This involves bringing to the attention of the Commission all material aspects of the claim, whether such aspects are seen by the claimant as beneficial to or reductive of its claims. The obligation is not dissimilar to good faith requirements under domestic jurisdictions.

3. Missing documents: The nature and adequacy of the paper trail

38. The Panel now turns to the question of what a claimant must do.

39. Where documents cannot be supplied, their absence must be explained in a credible manner. The explanation must itself be supported by the appropriate evidence. Claimants may also supply substitute documentation for or information about the missing documents. Claimants must remember that the mere fact that they suffered a loss at the same time as the hostilities in the Persian Gulf were starting or were in process does not mean that the loss was directly caused by Iraq's invasion and occupation of Kuwait. A causative link must be established. It should also be borne in mind that it was not the intention of the Security Council in its resolutions to provide a "new for old" basis of reimbursement of the losses suffered in respect of tangible property. Capital goods depreciate. That depreciation must be taken into account and demonstrated in the evidence filed with the Commission. In sum, in order for evidence to be considered appropriate and sufficient to demonstrate a loss, the Panel expects claimants to present to the Commission a coherent, logical and sufficiently evidenced file leading to the financial claims that they are making.

40. Of course, the Panel recognises that in time of civil disturbances, the quality of proof may fall below that which would be submitted in a peace time situation. Persons who are fleeing for their lives do not stop to collect the audit records. Allowances have to be made for such vicissitudes.

41. The Panel has approached the claims in the light of the general and specific requirements to produce documents noted above. Where there has been a lack of documentation, combined with no or no adequate explanation for that lack, and an absence of alternative evidence to make good any part

of that lack, the Panel has had no opportunity or basis upon which to make a recommendation.

B. Amending claims after filing

42. In the course of processing the claims after they have been filed with the Commission, further information is sought from the claimants pursuant to the Rules. When the claimants respond they sometimes seek to use the opportunity to amend their claims. They add new loss elements. They increase the amount originally sought in respect of a particular loss element. They transfer monies between or otherwise adjust the calculation of two or more loss elements. They do all of these.

43. The Panel notes that the period for filing category "E" claims expired on 1 January 1996. The Governing Council approved a mechanism for these claimants to file unsolicited supplements until 11 May 1998. After that date a response to an inquiry for additional evidence is not an opportunity for a claimant to increase the quantum of a loss element or elements or to seek to recover in respect of new loss elements. In these circumstances, the Panel is unable to take into account such increases nor such new loss elements when it is formulating its recommendation to the Governing Council. It does, however, take into account additional documentation where that is relevant to the original claim, either in principle or in detail. It also exercises its inherent powers to re-characterise a loss which is properly submitted as to time, but is inappropriately allocated.

44. Some claimants also file unsolicited submissions. These too sometimes seek to increase the original claim in the ways indicated in the previous paragraph. Such submissions when received after 11 May 1998 fall to be treated in the same way as amendments put forward in solicited supplements. Accordingly the Panel is unable to, and does not, take into account such amendments when it is formulating its recommendation to the Governing Council.

C. Contract losses

1. Claims for contract losses with a non-Iraqi party

45. Some of the claims relate to losses suffered as a result of non-payment by a non-Iraqi party. The fact of such a loss, simpliciter, does not establish it as a direct loss within the meaning of Security Council resolution 687 (1991). In order to obtain compensation, a claimant should lodge sufficient evidence that the entity carrying on business on 2 August 1990 was unable to make payment as a direct result of Iraq's invasion and occupation of Kuwait.

46. A good example of this would be that the party was insolvent and that insolvency was a direct result of the illegal invasion and occupation of

Kuwait. At the very least a claimant should demonstrate that the other party had not renewed operations after the occupation. In the event that there are multiple factors which have resulted in the failure to resume operations, apart from the proved insolvency of the other party, the Panel will have to be satisfied that the effective reason or causa causans was Iraq's invasion and occupation of Kuwait.

47. Any failure to pay because the other party was excused from performance by the operation of law which came into force after Iraq's invasion and occupation of Kuwait is in the opinion of this Panel the result of a novus actus interveniens and it is not a direct loss arising out of Iraq's invasion and occupation of Kuwait.

2. Losses arising as a result of unpaid retentions

48. The claims before this Panel include requests for compensation for unpaid retention.

49. Where the payment is directly related to the work done, it is almost invariably the case that the amount of the actual (net) payment is less than the contractual value of the work done. This is because the employer retains in his own hands a percentage (usually 5 per cent or 10 per cent and with or without an upper limit) of that contractual value. (The same approach usually obtains as between the contractor and his subcontractors.) The retained amount is often called the "retention" or the "retention fund". It builds up over time. The less work the contractor had carried out before the project comes to an early halt, the smaller the fund.

50. The retention is usually payable in two stages, one at the commencement of the maintenance period, as it is often called, and the other at the end. The maintenance period usually begins when the employer first takes over the project, and commences to operate or use it. Thus the work to which any particular sum which is part of the retention fund relates may have been executed a very long time before the retention fund is payable.

51. In the light of the above considerations it seems to this Panel that the situation in the case of claims for retention is as follows:

(a) The evidence before the Commission may show that the project was in such trouble that it would never have reached a satisfactory conclusion. In such circumstances, there can be no positive recommendation, principally because there is no direct causative link between the loss and Iraq's invasion and occupation of Kuwait.

(b) Equally it may be the case that the evidence may show that the project would have reached a conclusion, but that there would have been problems to resolve. Accordingly the contractor would have had to expend money resolving those problems. That potential cost would have to be deducted from the claim for retention; and accordingly the most convenient course would be to recommend an award to the contractor of a suitable percentage.

(c) Finally, on the evidence it may be the case that there is no reason to believe or conclude that the project would have gone other than satisfactorily. In those circumstances, it seems that the retention claim should succeed.

D. Claims for "lost profits"

52. Governing Council decision 9, paragraph 9, provides that where "continuation of the contract became impossible for the other party as a result of Iraq's invasion and occupation of Kuwait, Iraq is liable for any direct loss the other party suffered as a result, including lost profits". (S/AC.26/1992/9)

53. The expression "lost profits" is an encapsulation of quite a complicated concept. In particular, it will be appreciated that achieving profits or suffering a loss is a function of the risk margin and the actual event. See Fourth Report, paragraphs 133 - 138.

54. The qualification of "margin" by "risk" is an important one in the context of construction contracts. These contracts run for a considerable period of time; they often take place in remote areas or in countries where the environment is hostile in one way or another; and of course they are subject to political problems in a variety of places - where the work is done; where materials, equipment or labour have to be procured; and along supply routes. The surrounding circumstances are thus very different and generally more risk prone than is the case in the context of, say, a contract for the sale of goods.

55. In the view of the Panel it is important to have these considerations in mind when reviewing a claim for lost profits on a major construction project. In effect one must review the particular project for what might be called its "loss possibility". The contractor will have assumed risks. It will have provided a margin to cover these risks. It will have to demonstrate a substantial likelihood that the risks would not occur or would be overcome within the risk element so as to leave a margin for actual profit.

56. This approach, in the view of the Panel, is inherent in the thinking behind paragraph 5 of Governing Council decision 15. This paragraph expressly states that a claimant seeking compensation for business losses such as loss of profits, must provide "detailed factual descriptions of the circumstances of the claimed loss, damage or injury" in order for compensation to be awarded.

57. In the light of the above analysis, and in conformity with the two decisions cited above, this Panel requires the following from those construction claimants that seek to recover for lost profits. First, the phrase "continuation of the contract" imposes a requirement on the claimant to prove that it had an existing contractual relationship at the time of the invasion. Second, the provision requires the claimant to prove that the continuation of the relationship was rendered impossible by Iraq's invasion and occupation of Kuwait. This provision indicates a further requirement that profits should be measured over the life of the contract. It is not sufficient to prove that there would have been a "profit" at some stage before the completion of the project. Such a proof would only amount to a demonstration of a temporary credit balance. This can even be achieved in the early stages of a contract, for example where the pricing has been "front-loaded" for the express purpose of financing the project. Instead, the claimant must lodge sufficient and appropriate evidence to show that the contract would have been profitable as a whole.

E. Tangible property

58. With reference to losses of tangible property, decision 9 provides that where direct losses were suffered as a result of Iraq's invasion and occupation of Kuwait with respect to tangible assets, Iraq is liable for compensation (paragraph 12). Typical actions of this kind would have been the expropriation, removal, theft or destruction of particular items of property by Iraqi authorities. Whether the taking of property was lawful or not is not relevant for Iraq's liability if it did not provide for compensation. It furthermore provides that in a case where business property had been lost because it had been left unguarded by company personnel departing due to the situation in Iraq and Kuwait, such loss may be considered as resulting directly from Iraq's invasion and occupation (paragraph 13).

59. Subject to the limitations set forth in paragraph 21 of this report, the Panel finds that this analysis applies with equal force to tangible property losses suffered in the Kingdom of Saudi Arabia.

F. Payment or relief to others

60. Paragraph 21(b) of decision 7 specifically provides that losses suffered as a result of "the departure of persons from or their inability to leave Iraq or Kuwait" are to be considered the direct result of Iraq's invasion and occupation of Kuwait. Consistent with decision 7, therefore, the Panel finds that evacuation and relief costs incurred in assisting employees in departing from the Kingdom of Saudi Arabia are compensable to the extent such departures were the direct result of military operations or threat of military operations, by either side during the period 2 August 1990 to 2 March 1991.

61. Paragraph 22 of Governing Council decision 7 provides that "payments are available to reimburse payments made or relief provided by corporations or other entities to others - for example, to employees, or to others pursuant to contractual obligations - for losses covered by any of the criteria adopted by the Council".

62. In the Fourth Report, this Panel found that the costs associated with evacuating and repatriating employees between 2 August 1990 and 2 March 1991 are compensable to the extent that such costs are proven by the claimant and are reasonable in the circumstances. Urgent temporary liabilities and extraordinary expenses relating to evacuation and repatriation, including transportation, food and accommodation, are in principle, compensable.

63. Many claimants did not provide a documentary trail detailing to perfection the expenses incurred in caring for their personnel and transporting them out of a theatre of hostilities.

64. In these cases the Panel considered it appropriate to accept a level of documentation consistent with the practical realities of a difficult, uncertain and often hurried situation, taking into account the concerns necessarily involved. The loss sustained by claimants in these situations is the very essence of the direct loss suffered which is stipulated by Security Council resolution 687 (1991). Accordingly, the Panel used its best judgement, after considering all relevant reports and the material at its disposal, to arrive at an appropriate figure.

IV. NON-RESPONDING CLAIMANTS

65. Claims submitted to the Commission must meet certain formal requirements established by the Governing Council.

66. Article 14 of the Rules sets forth the formal requirements for claims submitted by corporations and other legal entities. These claimants must submit:

(a) an "E" claim form with four copies in English or with an English translation;

(b) the name and address of the claimant and evidence of the amount, type and causes of losses;

(c) an affirmation by the Government that, to the best of its knowledge, the claimant is incorporated in or organized under the law of the Government submitting the claim;

(d) documents evidencing the name, address and place of incorporation or organization of the claimant;

(e) evidence that the claimant was, on the date on which the claim arose, incorporated or organized under the law of the Government which has submitted the claim;

(f) a general description of the legal structure of the claimant; and

(g) an affirmation by the authorized official for the claimant that the information contained in the claim is correct.

67. Additionally, the "E" claim form requires that a claimant submit with its claim a separate statement in English explaining its claim ("Statement of Claim"), supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed losses. The following particulars are requested in the "INSTRUCTIONS FOR CLAIMANTS":

(a) the date, type and basis of the Commission's jurisdiction for each element of loss;

(b) the facts supporting the claim;

(c) the legal basis for each element of the claim; and

(d) the amount of compensation sought and an explanation of how the amount was calculated.

68. If it is determined that a claim does not meet these formal specifications or does not include a Statement of Claim, the claimant is sent an article 15 notification requesting the claimant to remedy such deficiencies.

69. Each of the claimants included in this report was sent an article 15 notification on 1 October 1998 requiring a response on or before 1 April 1999. If a claimant failed to respond to that notification, the claimant was sent a formal article 15 notification on 3 May 1999 and required to reply on or before 2 July 1999.

70. Additionally, each of the claimants included in this report was sent an article 34 notification dated 10 March 1999 requesting additional information and documentation in support of its claim on or before 14 July 1999. If a claimant failed to respond to the article 34 notification, a reminder notification dated 20 July 1999 was sent to the claimant requesting it to provide the information and documentation on or before 3 August 1999.

71. The claimants identified in the table below failed to comply with the formal requirements established by the Governing Council. Out of the nine identified claimants, eight of them did not respond to any of the notifications sent by the secretariat. The ninth responded to the article

15 notifications, but failed to respond to the article 34 notifications. All of these claimants failed to rectify certain formal deficiencies or to provide sufficient information and documentation that would allow the Panel to review the claims.

Table 1. Non-responding claimants

Claimant	Claim Amount USD	Recommended Amount USD	Deficiencies
Abahsain Secem Limited	1,945,268	nil	copies; proof of incorporation; signing authority; statement of claim
Ali Awad Al Qahtani	218,034	nil	copies; translations; proof of incorporation; signing authority; statement of claim
Alissa Chemaco	1,564,187	nil	copies; translations; proof of incorporation; signing authority; statement of claim
Al Taif Co.	3,636,614	nil	translations; signing authority
Awrad United Trading	614,361	nil	copies; translations; proof of incorporation; signing authority; statement of claim
Metito Arabia	425,610	nil	copies; proof of incorporation; signing authority; statement of claim
Saudi Amoudi Group	630,848	nil	copies; statement of claim
Saudi Letco. Co. Ltd.	654,205	nil	copies; proof of incorporation
Trans Middle East	465,878	nil	copies; translations; proof of incorporation; signing authority; statement of claim

72. Notwithstanding the requirements of article 15 of the Rules, the Panel considered such information and documentation as had been submitted and found it to be insufficient to support any of the claims. Therefore, the Panel finds that each of these claimants both failed to fulfil certain formal requirements and to submit sufficient information and documentation to support the asserted losses.

73. Based on these findings, the Panel recommends no compensation for each of these claimants.

V. THE CLAIM OF ABU AL-ENAIN & JASTANIAH CO., LTD.

74. Abu Al-Enain & Jastaniah Co., Ltd. ("Abu Al-Enain") is a Saudi Arabian limited liability company specialising in construction. Abu Al-Enain provided an English translation of the "Company Registration Certificate" issued by the Ministry of Commerce in which Abu Al-Enain's name is stated as "Abu Alenain & Jastaniah Company for Contracting & Trading".

75. Abu Al-Enain seeks compensation in the amount of SAR 13,778,039 (USD 3,679,049) for contract losses, loss of profits, payment or relief to others, financial losses and claim preparation costs.

76. The claim preparation cost element is in the amount of SAR 250,000 (USD 66,756). Applying the approach taken with respect to claim preparation costs set out in paragraph 30, the Panel makes no recommendation for claim preparation costs.

A. Contract losses

1. Facts and contentions

77. Abu Al-Enain seeks compensation in the amount of SAR 4,383,361 (USD 1,170,457) for expenses incurred on bank commissions and delay penalties.

78. Abu Al-Enain entered into an agreement dated 5 October 1985 with the Water and the Sewerage Directorate, Eastern Province, for the implementation of the Jubail water distribution network at Jubail. The project works were to be completed in 30 months according to the Hijra calender.

79. Abu Al-Enain seeks SAR 883,361 for expenses incurred on bank commissions. Abu Al-Enain stated that work stopped at the project site and, as a result, it did not receive payment from the employer. Abu Al-Enain stated that because it did not receive payment, it was unable to repay bank loans and as a result, it paid increased commissions to the banks between August 1990 and April 1991.

80. Additionally, Abu Al-Enain seeks SAR 3,500,000 for delay penalties imposed by the employer due to delay in the completion of the project works.

2. Analysis and valuation

81. The Panel finds that Abu Al-Enain did not provide sufficient evidence to prove payment of the bank commissions. Abu Al-Enain provided a computer generated document entitled "Summary of Saudi French Bank Charges" for the period from August 1990 to April 1991. This document does not establish the payment of the alleged amount by Abu Al-Enain. Abu Al-Enain did not

provide any other evidence that would establish payment of the alleged amount and neither did it provide any documentary evidence with respect to the loans it took from the banks. Finally, Abu Al-Enain did not provide any evidence that would establish that the alleged loss was suffered as a direct result of Iraq's invasion and occupation of Kuwait. The Panel recommends no compensation for bank commissions.

82. In support of its claim for delay penalties, Abu Al-Enain provided an English translation of the copy of the agreement. Article 7 of the agreement refers to "Tardiness Fine". This article provides for the imposition of fines if project works are not completed on time. The Panel finds that Abu Al-Enain did not provide any evidence demonstrating payment or calculation of the alleged delay penalties. The Panel recommends no compensation for delay penalties.

3. Recommendation for contract losses

83. The Panel recommends no compensation for contract losses.

B. Loss of profits

84. Abu Al-Enain seeks compensation in the amount of SAR 2,500,000 (USD 667,557) for loss of profits. Abu Al-Enain stated that "the company was inflicted by loss of expected profits from August 90 to April 91 estimated at SAR 2,500,000". Abu Al-Enain did not provide any other information with respect to its claim for loss of profits.

85. The Panel finds that Abu-Al Enain did not submit sufficient evidence to support the alleged loss. Applying the approach taken with respect to loss of profits set out in paragraphs 52 to 57, the Panel recommends no compensation for loss of profits.

C. Payment or relief to others

86. Abu Al-Enain seeks compensation in the amount of (a) SAR 824,392 (USD 220,131) for monthly salaries and (b) SAR 136,544 (USD 36,460) for subsistence of employees.

87. Abu Al-Enain stated that it continued to pay salaries to its employees during the period August 1990 to April 1991 when no work was performed. It alleges that this loss is a direct result of Iraq's invasion and occupation of Kuwait because, had it not been for the invasion and occupation, it "would have acquired returns for these payments in the form of real work".

88. The Panel finds that Abu Al-Enain did not provide sufficient evidence to prove payment of monthly salaries. Abu Al-Enain provided copies of "contract of employment" and documents titled "breakdown of indirect manpower costs" for the months of August to December 1990 and January to

April 1991. The documents provided by Abu Al-Enain do not identify the period when work stopped on the project site and nor do they enable the Panel to understand how the claimed amount was calculated. The Panel recommends no compensation for monthly salaries.

89. From the information provided by Abu Al-Enain, the Panel is unable to determine the nature of the expenses incurred for subsistence of its employees.

90. As Abu Al-Enain did not provide sufficient evidence in support of losses for subsistence of employees, the Panel recommends no compensation for payment or relief to others.

D. Financial losses

1. Facts and contentions

91. Abu Al-Enain seeks compensation in the amount of SAR 5,683,742 (USD 1,517,688) as follows: (a) SAR 58,289 for electricity/water and telephone; (b) SAR 126,204 for benzine and diesel; (c) SAR 65,550 for rentals; (d) SAR 3,586,752 for "cost of idle time of equipment"; (e) SAR 700,000 for cost of materials; and (f) SAR 1,146,947 for remuneration of consultants.

2. Analysis and valuation

(a) Electricity/water and telephone

92. Abu Al-Enain did not provide sufficient evidence in support of this claim. The Panel recommends no compensation for electricity/water and telephone.

(b) Benzine and diesel

93. Abu Al-Enain did not provide sufficient evidence in support of this claim. The Panel recommends no compensation for benzine and diesel.

(c) Rentals

94. The Panel finds that Abu Al-Enain did not provide sufficient evidence to substantiate its claim for expenses incurred on rentals. Abu Al-Enain provided copies of lease agreements. The duration of the lease agreements and the dates on which they were executed are not stated on these agreements. Nor do the agreements mention the rental amount. The Panel also finds that the evidence provided does not establish that Abu Al-Enain paid the alleged amount. The Panel recommends no compensation for rentals.

(d) "Cost of idle time of equipment"

95. In support of its claim, Abu Al-Enain provided a copy of an undated letter (on plain paper) from the project manager to Mr. Ahmed Haboub at the Jeddah Head Office. This letter describes the equipment and vehicles that would be required, and those that would not be required, to complete the project works. This letter does not establish the presence of the described equipment and vehicles at the project site. Abu Al-Enain did not explain the basis of the calculation of the claimed amount and how it was calculated.

96. The Panel finds that Abu Al-Enain did not provide sufficient evidence to substantiate its claim for "cost of idle time of equipment". The Panel recommends no compensation for "cost of idle time of equipment".

(e) Cost of materials

97. Abu Al-Enain did not provide sufficient evidence in support of this claim. The Panel recommends no compensation for increase in cost of materials.

(f) Remuneration of consultants

98. Abu Al-Enain did not provide sufficient evidence in support of this claim. The Panel recommends no compensation for "remuneration of consultants".

3. Recommendation for financial losses

99. The Panel recommends no compensation for financial losses.

E. Summary of recommendation for Abu Al-Enain

100. Based on the foregoing findings, the Panel recommends no compensation.

VI. THE CLAIM OF AL-GHURERY COMPANY FOR TRADING AND CONTRACTING

101. Al-Ghurery Company for Trading and Contracting ("Al-Ghurery"), is a Saudi Arabian limited liability company. It seeks compensation for losses allegedly suffered during the execution of contract works for the Ministry of Defense and Aviation (the "Ministry") at King Fahd International Airport (the "Airport") ("Project A"); and contract works for the Saudi Fund for Development, for the construction of 192 housing units and a kindergarten at Malla, Aden, Yemen ("Project B").

102. On the claim form dated 6 January 1994, Al-Ghurery sought compensation in the total amount of SAR 18,918,852. In its substituted claim submitted by the claimant's legal representative, Al-Ghurery added SAR 32,000 for claim preparation costs and the total claimed amount was stated as SAR 18,950,852 (USD 5,060,308).

103. Applying the approach taken with respect to claim preparation costs set out in paragraph 30, the Panel makes no recommendation for claim preparation costs.

A. Contract losses on Project A

1. Facts and contentions

104. In its response to the article 34 notification, Al-Ghurery stated that for Project A it suffered "losses in the amount of SAR 4,607,003" (USD 1,230,174). Al-Ghurery seeks compensation in the amount of (a) SAR 898,929 for the refurbishing of buildings; (b) SAR 661,828 for miscellaneous losses; (c) SAR 1,189,054 for loss of output; (d) SAR 831,990 for loss due to reduced progress; and (e) SAR 1,025,202 for increase in the cost of materials.

105. The Panel also notes that the Ministry (in its capacity as a claimant) has filed a category "F" claim with the Commission, bearing UNCC claim No. 5000220. The claim of Al-Ghurery is included in this "F" claim for an amount of SAR 4,607,003. The Panel notes that Al-Ghurery did not disclose this information. It appears to the Panel that the portion of the Al-Ghurery claim included in the "F" claim filed by the Ministry is an exact duplicate. As Al-Ghurery has elected to submit its own claim, the Panel will decide this claim.

(a) Refurbishing of buildings

106. Al-Ghurery stated that "Refurbication of the building includes the repairs made to the damages incurred by the Allied Forces during their occupation of the buildings under construction and repairs/painting to the walls and equipment due to extended exposure to the sand and the sun".

(b) Miscellaneous losses

107. Al-Ghurery seeks compensation for losses incurred under the heading of miscellaneous losses as follows:

Table 2. Miscellaneous losses alleged by Al-Ghurery

1.	Shifting of materials	SAR 18,113
2.	Demobilisation of labour	SAR 77,000
3.	Remobilisation of labour	SAR 87,400
4.	Bank charges	SAR 15,000
5.	Additional watchmen	SAR 87,990
6.	Depreciation of vehicles and materials	SAR 125,000
7.	Increase in fuel and maintenance cost	SAR 15,000
8.	Storage charges for materials	SAR 100,000
9.	Refurbishing of labour camp	SAR 50,000
10.	Markup at 15 per cent	SAR 86,325
	TOTAL:	SAR 661,828

(c) Loss of output

108. Al-Ghurery seeks compensation for a decline in the productivity of its workers. It attributes this decline to a number of causes. These causes were: mental pressure, where it is said that some of its workforce lost three man hours per day; increased security, where it is said that some of its workforce lost two man hours per day; occupation of the Airport by the Allied Coalition Forces, where it is said that some of its workforce lost three man hours per day; and removal of its workforce from the project site. The stated losses are as follows:

Table 3. Loss of output alleged by Al-Ghurery

1.	Mental pressure	SAR 234,000
2.	Increased security	SAR 83,960
3.	Occupation by Allied Coalition Forces	SAR 125,280
4.	Demobilising until remobilisation	SAR 590,720
5.	Markup at 15 per cent	SAR 155,094
	TOTAL:	SAR 1,189,054

(d) Loss due to reduced progress

109. Al-Ghurery stated that Iraq's invasion and occupation of Kuwait and the consequent occupation of the Airport by the Allied Coalition Forces led to the decline of productivity and increased overheads. Al-Ghurery calculated overheads from August 1990 to November 1991 as SAR 763,552. It stated that during this period it recovered overheads in the amount of SAR 65,184. It further stated that during the months of August 1990 to March 1991 overheads increased to 35 per cent. For this eight month period, it has calculated the increase in overheads for a total loss of SAR 831,990.

(e) Increase in the cost of materials

110. Al-Ghurery stated that "since it is not possible to produce cost comparison between old and new prices for all the materials, we have selected the major materials and compared their costs. Based on the compared costs of these materials a general percentage increase has been established. This percentage has been applied to the total cost of materials purchased until now and required to be purchased until completion".

2. Analysis and valuation

(a) Refurbishing of buildings

111. Al-Ghurery provided a self generated detailed schedule of labour and materials allegedly used. It also provided a copy of a letter dated 27 April 1991 addressed to the employer's project manager, stating that the damage to the buildings amounted to SAR 535,197. The Panel notes that Al-Ghurery did not explain the increase in the damage set forth in its claim nor did it provide any response from the project manager with respect to the compensability of its claim. From the evidence provided, the Panel is unable to ascertain if Al-Ghurery recovered its losses under the contract from the employer.

112. The Panel finds that Al-Ghurery did not provide sufficient evidence to substantiate its claim for the refurbishing of buildings and recommends no compensation.

(b) Miscellaneous losses

113. The Panel finds that Al-Ghurery did not provide sufficient evidence to substantiate its claim for miscellaneous losses. The Panel notes that the evidence provided by Al-Ghurery is in the form of its own calculations and assertions. It did not provide independent evidence (i.e., bills, receipts, invoices, documents establishing ownership) of the alleged expenditures. The Panel finds that the evidence provided by Al-Ghurery does not establish that it incurred the alleged expenditures or suffered the alleged losses. The Panel recommends no compensation.

(c) Loss of output

114. Al-Ghurery provided a self generated list of its employees containing 208 names and their salaries, together with illegible payroll records. This list covered only part of the period for which the loss is claimed. Al-Ghurery did not provide documentation or other information to substantiate its claims relating to lost man hours. The Panel also notes that there is a possibility of duplication of daily assessment periods. With respect to demobilising the employees, the Panel finds that the evidence provided does not establish that the employees were evacuated or were non-productive. The Panel finds that Al-Ghurery did not provide sufficient evidence to substantiate its claim for loss of output. The Panel recommends no compensation.

(d) Loss due to reduced progress

115. The Panel finds that Al-Ghurery did not provide sufficient evidence to substantiate its loss due to reduced progress. It provided an internally generated document that breaks down the losses. In its response to the article 34 notification, it also provided interim payment certificates up to December 1990. The interim payment certificates provided do not cover the full period for which the loss is claimed. Al-Ghurery did not provide evidence to establish the basis on which it calculated its overheads or the increase in overheads to 35 per cent. Al-Ghurery did not provide progress statements, work programmes or cash flow forecasts to allow the Panel to compare the budgeted work with actual progress. The Panel also notes that the project works were to be completed by 11 July 1991, but were eventually completed on 3 February 1994. It may be, indeed almost certainly was, the case that this extension of the contract period from the middle of 1991 to early 1994 led to an increase in the overheads. However, Al-Ghurery did not provide sufficient evidence for the Panel to determine either the question of causality or the question of amount. The Panel recommends no compensation.

(e) Increase in cost of materials

116. The Panel finds that Al-Ghurery did not provide sufficient evidence to substantiate its loss due to increase in the cost of materials. It provided an internally generated document wherein it selected some "major materials" along with the name of suppliers and a comparison of old prices to the increased prices.

117. The Panel notes that the old and new quotations were not issued by the same supplier and neither are they for similar kinds of goods nor specifications. Some of the original quotations are in incomplete copies, and the original delivery or performance dates are not specified. The Panel also notes from the documents that intermediate revised quotations were issued in certain instances. These interim quotations seem to

identify increases proposed prior to Iraq's invasion and occupation of Kuwait, but sufficient evidence of these increases has not been provided.

118. The Panel finds that the evidence provided is not sufficient to support the claim. Further, the calculations of Al-Ghurery are not supported by the information and documents provided. The Panel recommends no compensation.

3. Recommendation for Project A contract losses

119. The Panel recommends no compensation for Project A contract losses.

B. Project B contract losses

120. Although not clearly identified by Al-Ghurery, it appears that Al-Ghurery was originally seeking compensation in the amount of SAR 14,343,849 (USD 3,830,133) for contract losses suffered on Project B. In its response to the article 34 notification, Al-Ghurery did not answer any questions, nor did it provide any evidence relating to Project B. The Panel finds that Al-Ghurery did not submit sufficient evidence to support the losses related to Project B. The Panel recommends no compensation.

C. Summary of recommendations for Al-Ghurery

121. Based on the foregoing findings, the Panel recommends no compensation. Because the Panel recommends no compensation, the claim for interest is also rejected.

VII. THE CLAIM OF AL HARBI TRADING AND CONTRACTING CO. LTD.

122. Al Harbi Trading and Contracting Company Ltd., ("Al Harbi") is a limited liability company incorporated in Riyadh, Saudi Arabia. Al Harbi seeks compensation in the total amount of SAR 6,452,198 (USD 1,722,883) for losses incurred due to project delays in respect of two contracts entered into with the Riyadh Municipality, claim preparation costs and interest on losses suffered.

123. In its response to the article 34 notification, Al Harbi increased the amount of its claim to SAR 17,996,646 adding losses for two additional contracts. For the reasons set out in paragraphs 42 to 44 (amending claims after filing), the Panel does not consider Al Harbi's claim for the increased amounts.

124. The claim preparation costs element is in the amount of SAR 22,010 (USD 5,877). Applying the approach taken with respect to claim preparation costs set out in paragraph 30, the Panel makes no recommendation for claim preparation costs.

Table 4: Losses alleged by Al Harbi

Loss	Al Feryan Road Contract	Aysha Bakr Road Contract	Total by Loss
1) Penalty and supervision	SAR 431,378	SAR 1,342,856	SAR 1,774,234
2) Manpower	SAR 1,444,397	SAR 1,452,311	SAR 2,896,708
3) Administrative and general expenses	SAR 424,413	SAR 208,097	SAR 632,510
4) Spare parts, maintenance, operation expenses and depreciation	SAR 268,962	SAR 857,774	SAR 1,126,736
Total by Contract	SAR 2,569,150	SAR 3,861,038	SAR 6,430,188 (USD 1,717,006)

125. Al Harbi stated that due to the circumstances that occurred during the execution periods of the contracts, including desertion of the workers and the tense state of war, the project was delayed and the contracts were extended.

126. Al Harbi provided little explanation of its claimed losses and relied solely on the differences between the stated dates of initial handover and the dates of final completion to establish the delay periods of the

projects. No further explanation or documentation is provided to demonstrate that such losses were incurred or their cause.

127. The Panel finds that Al Harbi did not provide sufficient evidence of its stated losses. In addition, the Panel finds that Al Harbi failed to establish the causal connection between its stated losses and Iraq's invasion and occupation of Kuwait. Accordingly, the Panel recommends no compensation for contract losses.

128. Al Harbi also seeks compensation for interest on the losses suffered. Because the Panel recommends no compensation for the contract losses, the claim for interest is rejected.

129. Based on the foregoing findings, the Panel recommends no compensation.

VIII. THE CLAIM OF AL-HUGAYET TRADING & CONTRACTING EST.

130. Al-Hugayet Trading & Contracting Est. ("Al-Hugayet") is a sole proprietorship owned by Mr. Abdul Hadi H. Al-Zoebi established in Dammam, Saudi Arabia. Al-Hugayet is engaged in the import, sales and maintenance of equipment under agency contracts as well as carrying out general service contracts.

131. Al-Hugayet was involved in several operation and maintenance contracts in the Eastern Province of Saudi Arabia, but its main source of income was from a contract with Arabian Oil Company ("AOC") in Al-Khafji. The contract was for the supply of manpower, technical and engineering services for AOC production facilities. Al-Hugayet charged its fees on an hourly rate basis. The contract was to begin on 1 November 1990 and run for a period of five years.

132. Additionally, Al-Hugayet alleges that it acts as an agent for a number of international manufacturers and that its sales for the period August 1990 to December 1991 decreased due to Iraq's invasion and occupation of Kuwait.

133. Al-Hugayet seeks compensation in the total amount of SAR 4,489,807 (USD 1,198,880) for loss of profits, payment or relief to others, financial losses and claim preparation costs.

134. The claim preparation costs element is in the amount of SAR 27,500 (USD 7,343). Applying the approach taken with respect to claim preparation costs set out in paragraph 30, the Panel makes no recommendation for claim preparation costs.

A. Loss of profits

1. Facts and contentions

135. Al-Hugayet seeks compensation in the total amount of SAR 3,238,684 (USD 864,802) for loss of profits on the AOC contract and for the loss of profits incurred by its trading division. It also seeks SAR 255,207 (USD 68,146) for penalties assessed on the AOC contract.

(a) Contract with AOC

136. Al-Hugayet seeks compensation in the amount of SAR 362,684 for loss of profits on the contract with AOC. In the original claim Al-Hugayet stated the loss of profits as SAR 1,427,121. It subsequently reduced this amount after receipt of a payment of SAR 1,064,437.

137. Al-Hugayet stated the amount sought for loss of profits was the difference between the expected and actual profits for the period of 1 November 1990 to 31 December 1991.

138. The expected profit was calculated on the assumption that the contract would be fully staffed during this period and the manpower would have worked overtime for 10 per cent of the normal working hours. To evidence its loss Al-Hugayet provided an internally generated schedule of minimum expected sales and overhead margins for the contract and an internally generated schedule reflecting the actual sales and overhead margins accompanied by financial statements for 1989-1992.

(b) Trading division

139. Al-Hugayet seeks SAR 2,876,000 as loss of profits incurred by its trading division. Al-Hugayet stated that orders were put on hold by its clients, that shipments were either delayed or stopped by suppliers, and that representatives refused to come to Saudi Arabia for marketing and technical support. In response to the article 34 notification, Al-Hugayet stated that there was no particular party or contract to which it could attribute the loss of trading profit.

140. Al-Hugayet calculated its lost sales by deducting actual sales made from 1 June 1990 to 31 December 1991 from the estimated sales that Al-Hugayet believes it would have made had Iraq not invaded and occupied Kuwait. Al-Hugayet furnished an internally generated schedule containing the expected sale amounts for the third quarter of 1990 to the fourth quarter of 1991 and the corresponding actual sale amounts. No evidence is provided to support a rise in sales volume up to August 1990 and a decline thereafter. In fact, the sales figures submitted by Al-Hugayet reflect the reverse. The third and fourth quarters of 1990 were more profitable than the first half of that year.

(c) Penalties assessed on the AOC contract

141. Al-Hugayet seeks compensation in the amount of SAR 255,207 for penalties deducted by the AOC for man hours which were not provided by it from July to December 1991.

142. In its response to the article 34 notification, Al-Hugayet increased the claimed amount in respect of penalties by adding SAR 306,114 for the penalties assessed from January to June 1991. However, for the reasons set out in paragraphs 42 to 44 (amending claims after filing), the Panel does not consider Al-Hugayet's loss for the revised amount.

143. Al-Hugayet maintained it could not recruit and staff the contract to meet the start date of 1 November 1990 and these problems continued throughout 1991. Al-Hugayet stated that AOC deducted amounts as penalties for "unfilled position" throughout 1991 and that these penalties were a direct result of Iraq's invasion and occupation of Kuwait. The claimant submitted invoices dated from July to December of 1991 that indicated the itemised deductions. The invoice for the months of July, August and September included 13 coded entries in the following format "FM-PNLTY10".

The Panel assumes "PNLTY" means penalty, but is unable to interpret the codes before and after "PNLTY". The items deducted from the remaining invoices do not include "PNLTY". The claimant failed to provide any additional information or explanation of this loss item.

2. Analysis and valuation

144. The Panel finds that Al-Hugayet failed to establish the direct causal connection between its stated losses and Iraq's invasion and occupation of Kuwait. In addition, the Panel finds that Al-Hugayet did not provide sufficient evidence of its stated losses.

3. Recommendation for loss of profits

145. The Panel recommends no compensation for loss of profits or delay penalties.

B. Payment or relief to others

146. Al-Hugayet seeks compensation in the total amount of SAR 968,416 (USD 258,589) for losses on airfares for new recruits, airfares for recruitment personnel, recruitment costs, purchase of new vehicles, financial and interest losses, miscellaneous expenses, and evacuation costs.

(a) Airfares and recruitment costs

147. Al-Hugayet seeks compensation in the total amount of SAR 311,554 for airfares for new recruits, airfares for recruitment personnel and recruitment costs.

148. Al-Hugayet stated it incurred increased costs on the contract with AOC because the bid price for this contract was based on the assumption that most of the employees from the previous contract would roll over into the new contract. Therefore Al-Hugayet would have borne no additional costs for recruiting and travelling expenses for staffing this contract.

(b) Purchase of new vehicles

149. Al-Hugayet seeks compensation in the amount of SAR 197,000 for the purchase of new vehicles for use on the AOC contract.

150. Al-Hugayet stated that when Iraq invaded and occupied Kuwait, the duration of this situation or its consequences were unknown. Al-Hugayet determined it was more convenient to sell the vehicles used at the site after the evacuation of its employees. When work resumed Al-Hugayet stated it had to comply with the contract terms and was obliged to replace the vehicles it sold with new vehicles.

(c) Financial and interest losses

151. Al-Hugayet seeks compensation in the amount of SAR 240,977 for expenses incurred on financial and interest losses.

152. Al-Hugayet stated that due to the losses and expenses incurred as a result of Iraq's invasion and occupation of Kuwait, the bank overdraft facilities had to be increased to finance its contractual and trading obligations. The increased use of the overdraft was due "mainly" to the additional financial burden caused by the interruption of the AOC contract.

153. In response to the article 34 notification, Al-Hugayet increased the amount claimed to SAR 2,146,972 to cover non-payment over the five year life of the contract with AOC. For the reasons set out in paragraphs 42 to 44 (amending claims after filing), the Panel does not consider Al-Hugayet's claim for the revised amount.

(d) Miscellaneous expenses

154. Al-Hugayet seeks compensation in the total amount of SAR 101,331 for expenses of employees evacuated from Al-Khafji. The expenses included food allowance (SAR 56,741); accommodations in Al-Hasa (SAR 10,550); evacuation expenses (SAR 10,820); Iqama (visa) fees for new arrivals (SAR 14,420); and gas masks (SAR 8,800).

155. Al-Hugayet stated it continued performance on the contract up to 16 January 1990 just before the invasion of Al-Khafji by the Iraqi army. The claimant evacuated all employees from the Al-Khafji area and incurred expenses for room and board for personnel. On 17 January 1991, AOC declared a force majeure event under the contract, which was in effect until 27 April 1991.

156. The only employees relocated outside Saudi Arabia were those who chose to "leave the work totally" and return to their own country.

157. Al-Hugayet seeks compensation in the amount of SAR 117,554 for expenses incurred in evacuating its employees who left Saudi Arabia. Al-Hugayet stated that instead of using the return/excursion tickets, new one way tickets had to be purchased.

158. Al-Hugayet stated that the evacuation of sixty employees was effected upon the employees' request and was done during a difficult time where Al-Hugayet could not obtain any affidavits other than the invoices issued. The employees departed individually or in small groups over the course of 12 months, starting in January 1991.

2. Analysis and valuation

(a) Airfares and recruitment costs

159. Al-Hugayet provided invoices for air travel from November 1990 to October 1992, but did not provide names of new recruits, passport numbers, project assignments or proof of payment. Al-Hugayet did not submit contracts or demonstrate that such expenses were extraordinary and temporary costs caused solely by Iraq's invasion and occupation of Kuwait. The Panel finds that Al-Hugayet did not provide sufficient evidence of its stated losses.

(b) Purchase of new vehicles

160. In support of its loss, Al-Hugayet provided an agreement for the sale of three buses and 15 pick-up trucks for SAR 504,000 on 15 February 1991 and a cash invoice for the purchase of 15 white diesel Nissan 1991 pick up trucks on 23 May 1991 for SAR 566,000. Al-Hugayet also submitted correspondence between it and its employer that indicated that Al-Hugayet was required to purchase new vehicles because the existing vehicles were not in compliance with the requirements of the contract. Al-Hugayet did not allege that its vehicles were damaged or destroyed due to Iraq's invasion of Kuwait. The Panel finds that Al-Hugayet did not provide sufficient evidence that its losses were the direct result of Iraq's invasion and occupation of Kuwait.

(c) Financial and interest losses

161. To support its claim for increased overdraft charges, Al-Hugayet provided two letters from Riyadh Bank to Al-Hugayet dated 28 February 1991 and 10 May 1993, respectively. These letters were only partially translated into English. The limited translations do not permit the Panel to determine the nature of the increases or the amounts that may have been assessed. The Panel finds that Al-Hugayet did not provide sufficient evidence of its stated losses.

(d) Miscellaneous expenses

162. In support of the claim for food allowances, Al-Hugayet supplied lists entitled "food allowance advance" for February through May of 1991 which are signed and dated by the recipient. No list is provided of the AOC employees at the Al-Hasa site, and the number of employees paid food allowance advances does not match with the number of employees evacuated from the Al-Khafji site. Al-Hugayet did not submit any evidence that such expenses were extraordinary or temporary in nature. The Panel finds that Al-Hugayet did not provide sufficient evidence of its stated losses.

163. In support of losses due to employee accommodation in Al-Hasa, Al-Hugayet provided a receipt in the amount of SAR 1,600 for three rooms in

Al-Hasa from 18 January to 18 March 1991, a receipt in the amount of SAR 4,000 for advance payment for nine rooms in Al-Hasa dated 18 January 1991, a payment voucher in the amount of SAR 4,930 for Al-Hasa rent dated 8 July 1991, and a transfer draft application in the amount of SAR 1,600 dated 8 July 1991. Al-Hugayet did not provide a list of the employees housed in each accommodation or an explanation as to why accommodation would be needed after the project restart date of 27 April 1991. The Panel finds that Al-Hugayet failed to establish the causal connection between these losses and Iraq's invasion and occupation of Kuwait. In addition, the Panel finds that Al-Hugayet did not provide sufficient evidence of its stated losses for payments shown after January 1991.

164. The Panel recommends SAR 5,600 for accommodation expenses incurred in January 1991.

165. In support of the claim of evacuation expenses, Al-Hugayet furnished all receipts and an accompanying expense claim form of an employee dated 16 March 1991 noting that the expenses were incurred in evacuating AOC employees to Al-Hasa. The Panel recommends SAR 10,820 for the costs of evacuating the AOC employees.

166. In support of its claim for Iqama fees, Al-Hugayet furnished a petty cash voucher dated 29 June 1991. The Panel finds that Al-Hugayet failed to establish the causal connection between its stated losses and Iraq's invasion and occupation of Kuwait.

167. Al-Hugayet provided petty cash vouchers for the purchase of gas masks. The Panel recommends SAR 8,800 for the costs of gas masks.

168. In support of its evacuation costs claim Al-Hugayet provided a list of 60 personnel who allegedly left Saudi Arabia between 15 November 1990 and 28 December 1991, accompanied by the invoices from the travel agency and a copy of each ticket. Eight of the employees on this list were included on a statement of account as "vacationists". No evidence or information is provided to explain why this evacuation began in November 1990 and continued throughout the next year. The Panel finds that Al-Hugayet failed to establish the causal connection between its stated losses and Iraq's invasion and occupation of Kuwait.

3. Recommendation for payment or relief to others

169. The Panel recommends compensation in the total amount of SAR 25,220.

C. Summary of recommendation for Al-Hugayet

170. Based on the foregoing findings, the Panel recommends compensation in the amount of USD 6,734 (SAR 25,220).

IX. THE CLAIM OF ARABIAN LAMAH CO. LTD.

171. Arabian Lamah Co. Ltd. ("Arabian Lamah") is a Saudi Arabian limited liability company specialising in electrical and mechanical contracting works.

172. Arabian Lamah seeks compensation in the amount of SAR 19,178,072 (USD 5,120,981) for contract losses, interest to be calculated by the UNCC and claim preparation costs.

173. The claim preparation costs element is in the amount of SAR 30,000. Applying the approach taken with respect to claim preparation costs set out in paragraph 30, the Panel makes no recommendation for claim preparation costs.

174. Arabian Lamah entered into a sub-contract with the main contractor, El Seif Engineering Contracting Establishment ("El Seif"). The sub-contract is dated 2 November 1988 and is for the execution of heating ventilation and air conditioning works on the third extension of the training centre at Wadi Al Dawasir. The employer was the Ministry of Defence and Aviation. The value of the sub-contract works is SAR 31,000,000. The sub-contract works were to be completed within a period of 518 days "i.e. April 1990".

175. Arabian Lamah sub-sub-contracted the project works to a Belgian company called Continental Air Conditioning International N.V. ("CACI"). Arabian Lamah stated that at the time Iraq invaded and occupied Kuwait the employees working at the project site indicated their intentions to leave. It further stated that on 29 August 1990 it informed El Seif that it would not be able to perform its sub-contract at the project site because of the depletion of the workforce.

176. Arabian Lamah asserted that El Seif treated the abandonment of the project works as a breach of the sub-contract agreement and on 26 November 1990 El Seif engaged the services of Abahsain Secem Ltd. to complete the project works. Thereafter, El Seif filed a claim against Arabian Lamah for the amount (SAR 19,148,072) that El Seif spent in getting the project works completed by Abahsain Secem Ltd.

177. The Panel notes that in the article 34 notification, Arabian Lamah was requested to identify the nature of proceedings instituted against it and the status of those proceedings. It was also requested to state the forum in which the proceedings were instituted and to provide a copy of the pleadings together with a copy of the award or judgement. In its response, Arabian Lamah stated that the "proceedings are on going according to the Labor laws of Saudi Arabia" and "please refer to the claim of El Seif Engineering Contracting Est. against Arabian Lamah Co. Ltd." The Panel notes that the claim to which Arabian Lamah referred is a demand letter dated 23 February 1993 from Al Seif demanding Arabian Lamah to pay SAR

19,148,072. The Panel finds that Arabian Lamah provided no other information or documentation related to the demand letter.

178. The Panel finds that Arabian Lamah did not submit sufficient evidence to substantiate its claim for contract losses. Arabian Lamah did not submit any evidence to support its assertion that El Seif filed a claim against it or that Arabian Lamah paid the alleged amount.

179. The Panel recommends no compensation for contract losses. Because the Panel recommends no compensation for the contract losses, the claim for interest is rejected.

X. THE CLAIM OF CHIYODA PETROSTAR LTD.

180. Chiyoda Petrostar Ltd., Saudi Arabia ("Chiyoda") is a mixed limited liability company registered in Jeddah, Saudi Arabia.

181. Chiyoda seeks compensation in the amount of USD 20,734,289 for contract losses incurred as a result of increased costs for goods, services and accommodation, interest and claim preparation costs.

182. The claim preparation costs element is in the amount of SAR 35,000 (USD 9,346). Applying the approach taken with respect to claim preparation costs set out in paragraph 30, the Panel makes no recommendation for claim preparation costs.

183. In its response to the article 34 notification, Chiyoda sought to increase the claimed amount to USD 24,751,000. However, for the reasons set out in paragraphs 42 to 44 (amending claims after filing), the Panel does not consider Chiyoda's claim for the revised amount.

A. Facts and contentions

184. The contract loss arises from the execution of a contract for the construction of an ammonia plant and an urea plant for Saudi Arabian Fertilizer Company ("SAFCO"). On 23 July 1990 SAFCO awarded a letter of intent to Chiyoda Corporation, a related company in Japan, for the design, engineering and procurement services to be performed outside the Kingdom of Saudi Arabia and to Chiyoda for all remaining works and services under the scope of work inside Saudi Arabia. Chiyoda Corporation accepted the letter of intent for both companies on 26 July 1990. The "lump-sum turn-key" contract dated 16 October 1990 contained an obligation to complete mechanical completion on or before 23 December 1992.

185. Chiyoda divided its claim into two parts: (a) the extra costs incurred due to the difficulties of procurement and field construction and (b) the additional costs incurred to recover lost time.

186. With respect to procurement and field construction, Chiyoda stated that with the arrival of the Allied Coalition Forces in Saudi Arabia, the available construction materials were directed to the Allied Coalition Forces and all port facilities were unavailable for industrial purposes. Chiyoda also alleged that negotiations for sub-contracts and procurement were not possible in a timely manner until after the liberation of Kuwait. Chiyoda then incurred additional costs in order to accelerate the construction work and local fabrication work to complete the project on time.

187. The plants were completed on time. Chiyoda also submitted correspondence between it and SAFCO regarding Chiyoda's demand for reimbursement of increased costs. The correspondence file ends with

Chiyoda's settlement proposal to SAFCO. However, Chiyoda did not submit SAFCO's reply.

B. Analysis and valuation

188. For the losses caused by procurement and construction difficulties, Chiyoda submitted vendor statements that estimated equipment prices "before the war" and equipment prices "after the war", a document entitled "Justification of Price Escalation for Construction of SAFCO Ammonia/Urea Project" from the supplier of the labour force, a price list from the Royal Commission Camp, and an unsigned lease agreement for a camp in Jubail for the period July 1991 to July 1993. However, Chiyoda failed to submit evidence of the volume of freight transported or the rate paid to demonstrate the increases in transportation costs. Chiyoda also supplied an internally prepared chart entitled "Increase of CPL Work Force Mobilization". The chart lists the increased costs between the original plan and present plan for construction equipment, manpower, and CPL supervisory staff.

189. The chart is supported by accounting spread sheets demonstrating cost comparisons for each of the three areas.

190. The Panel finds that Chiyoda failed to establish that such losses were the direct result of Iraq's invasion and occupation of Kuwait. In addition, the Panel finds that Chiyoda submitted sufficient evidence of the increase in costs, but did not provide sufficient evidence that such costs were not paid by SAFCO. In this context, the Panel notes that the category "E" claim filed by SAFCO alleges that a settlement was reached and that Chiyoda was paid in full.

C. Summary of recommendation for Chiyoda

191. Based on the foregoing findings, the Panel recommends no compensation for contract losses. Because the Panel recommends no compensation for the contract losses, the claim for interest is rejected.

XI. THE CLAIM OF GUSTAV EPPLE ARABIA LIMITED

192. Gustav Epple Arabia Limited ("Epple") is a limited liability company registered in Riyadh, Saudi Arabia. Epple seeks compensation in the amount of SAR 14,941,960 (USD 3,989,842) for contract losses, claim preparation costs and interest on the losses with respect to three projects.

193. The first of the three contracts was with Hyundai Engineering & Construction Company Limited for the construction of villages and stations in Riyadh and Yanbu. The second contract was with King Faisal Foundation for the design and construction of a private school. The third contract was with the Ministry of Defence and Aviation of the Kingdom of Saudi Arabia for the construction of a desalination station and sewage station. The losses of each contract are as follows:

Table 5: Losses alleged by Epple

Alleged Loss	Hyundai	King Faisal Foundation	Ministry of Defence and Aviation	Total by Loss
Delay fines	--	--	SAR 1,129,353	SAR 1,129,353
Consultant fees	SAR 1,559,000	SAR 768,107		SAR 2,327,107
Supervision fees			SAR 600,000	SAR 600,000
Losses of low productivity	SAR 5,774,000	SAR 1,000,000	SAR 750,000	SAR 7,524,000
Increase in shipping and transport costs	SAR 75,000	SAR 20,000	--	SAR 95,000
Additional cost in wages and food	SAR 1,785,000	SAR 750,000	SAR 700,000	SAR 3,235,000
Total by Contract	SAR 9,193,000	SAR 2,538,107	SAR 3,179,353	SAR 14,910,460 (USD 3,981,431)

194. The claim preparation costs element is in the amount of SAR 31,500 (USD 8,411). Applying the approach taken with respect to claim preparation costs set out in paragraph 30, the Panel makes no recommendation for claim preparation costs.

195. With respect to the delay fines imposed by the Ministry of Defence and Aviation, Epple stated that the project stopped due to the lack of an alternative labour force and this resulted in the imposition of the delay penalties. Epple provided six applications for payment beginning in July 1992 which indicated deductions due to delay, but provided no further detail as to the reasons for the delay or the time period in which the delays occurred. In addition, with respect to Epple's alleged loss due to

delay penalties, the Panel finds that Epple failed to establish that such losses were directly caused by Iraq's invasion and occupation of Kuwait.

196. The Panel notes that Epple provided no explanation of its losses for consultant fees, supervision fees and increased shipping and transport costs. There is no indication as to how these losses were quantified, when they were incurred or whether payment was made. Epple supplied 24 invoices from six freight and transport companies dated between April and December 1990. There is however no indication of the projects to which the invoices relate and no explanation as to why or how the invoices constitute an increase in cost.

197. Epple stated that the loss of productivity and the additional cost in wage and food were a result of the departure of the foreign work force from Saudi Arabia. Epple asserted that this departure caused a slow down on the projects and an increase in the cost of remuneration of, and subsistence for, the remaining workforce. Epple furnished no further explanation of these losses, nor any documentation to substantiate the loss or method of calculation of such losses.

198. The Panel finds that Epple did not provide sufficient evidence of its contract losses.

199. Epple also seeks compensation for interest on the losses suffered. Because the Panel recommends no compensation for the contract losses, the claim for interest is rejected.

200. Based on the foregoing findings, the Panel recommends no compensation.

XII. THE CLAIM OF MOHAMMED A. AL-SWAILEM CO. LTD. FOR COMMERCE & CONT.

201. Mohammed A. Al-Swailem Co. Ltd. for Commerce & Cont. ("Al-Swailem") is a limited liability company engaged in construction of roads, bridges and airports.

202. On the original category "E" claim form Al-Swailem sought compensation for contract losses in the amount of SAR 7,043,413 (USD 1,880,751). However, the total alleged loss suffered according to a document entitled "Summary of Compensation Claim" is SAR 7,043,314. Accordingly, the total amount for contract losses should be SAR 7,043,314 (USD 1,880,725).

203. Al-Swailem, in its response to the article 15 notification increased the total claimed amount for contract losses to SAR 13,124,481. The claimant's legal representative, in its response (dated 27 June 1999) to the formal article 15 notification dated 3 May 1999 further increased the claimed amount to SAR 13,144,481 by including SAR 20,000 as claim preparation costs.

204. Applying the approach taken with respect to amending claims after filing set out in paragraphs 42 to 44, the Panel does not take into account the increases in the claimed amounts.

A. Facts and contentions

205. The Ministry of Communications of the Kingdom of Saudi Arabia entered into a contract dated 14 August 1988 with Al Siddais General Contracting Establishment for the maintenance of roads. The total value of the contract was SAR 15,433,379. Pursuant to a "Works Execution Contract" dated 3 January 1990, entered into between Al-Swailem and Al Siddais General Contracting Establishment, Al-Swailem assumed and took over complete responsibility for the execution of the project. Al-Swailem stated that work on the project commenced on 2 February 1990 and was suspended on 2 August 1990.

206. Al-Swailem seeks compensation in the amount of (a) SAR 986,214 for salaries paid; (b) SAR 5,041,900 for non-use of equipment; and (c) SAR 1,015,200 for re-construction of the damaged part of the works.

207. Al-Swailem stated that project works were suspended for a period of 397 days during which period it continued to pay salaries to its technical, administrative, and executive staff. Al-Swailem stated that the cost of moving its personnel within the Kingdom of Saudi Arabia was also included in this loss element.

208. Al-Swailem stated that it could neither use its equipment nor move it to another site and that the rent of the equipment had increased fourfold.

209. Al-Swailem seeks compensation for expenses incurred on repairing the damage caused to the completed portion of the works.

B. Analysis and valuation

210. The Panel finds that Al-Swailem provided sufficient evidence to establish the payment of salaries to its employees for the month of August 1990 in the amount of SAR 61,975. The Panel finds that Al-Swailem did not submit sufficient evidence to support the losses caused by the suspension of works, the maintenance of personnel or any details of the costs of moving personnel to safer locations for the remaining period of time. The Panel recommends compensation for salaries paid to its employees for the month of August 1990.

211. The Panel finds that Al-Swailem did not provide sufficient evidence to substantiate its claim for "non use of equipment". The Panel notes that Al-Swailem provided a copy of the statement of contractors' equipment on site, issued by the Ministry of Communications. The statement covers eleven types of equipment, and includes the number of each type of equipment on site and the alleged daily rental rate.

212. The Panel finds that Al-Swailem did not provide details of capacities, models, makes, age, condition of the equipment or copies of any lease agreements. The Panel finds that Al-Swailem did not provide sufficient evidence to support the daily rates used in its calculation nor any evidence of payment of those rates. The Panel is unable to make any recommendation for compensation for "non use of equipment".

213. The Panel finds that Al-Swailem did not provide sufficient evidence to substantiate its claim for "re-construction of the damaged part of the works". The Panel notes that Al-Swailem did not provide evidence of the extent of damage or actual cost of the remedial work. The existence of extra works, a change in the design and scope of the project, and the construction of additional roads make the identification of compensable costs, if any, impossible. Therefore, the Panel recommends no compensation.

C. Summary of recommendations for Al-Swailem

214. Based on the foregoing findings, the Panel recommends compensation in the amount of USD 16,549 (SAR 61,975) for contract losses. The Panel finds the date of loss to be 2 August 1990.

XIII. THE CLAIM OF NESMA & AL FADL CONTRACTING CO. LTD.

215. Nesma & Al Fadl Contracting Co. Ltd. ("Nesma") is a Saudi Arabian limited liability company engaged in construction business. The original category "E" claim form dated 12 December 1993 states the name of Nesma as "Nesma and Fadl Contracting Co. Ltd.".

216. In its original claim, Nesma sought compensation in the amount of SAR 16,800 for the purchase of gas masks. In the substituted claim form submitted by the claimant's legal representative, Nesma sought compensation in the amount of SAR 82,505. This increased figure included SAR 10,000 as claim preparation costs charged by the claimant's legal representative. In its article 34 response dated 25 July 1999, Nesma stated that the correct amount spent on purchasing the gas masks was SAR 16,800 and not SAR 72,505. Nesma also withdrew its request for claim preparation costs.

217. Nesma seeks compensation in the amount of SAR 16,800 (USD 4,486) for payment or relief provided to others and interest to be determined "by the UNCC".

218. For the reasons stated in paragraph 28, the Panel does not address the issue of compensability of claims for interest.

219. Nesma stated that gas masks were purchased in Saudi Arabia on 5 February 1991, "a time during which the Allied air campaign against Iraq was ongoing and during which Saddam Hussain was launching SCUD missiles against civilian targets..."

220. The Panel finds that Nesma provided sufficient evidence to substantiate its claim for expenses incurred. Nesma provided a copy of an invoice dated 5 February 1991 from Star International Company Limited for gas masks with built-in filters. Nesma also provided a copy of a cheque dated 2 February 1991 issued in favour of Star International Company Limited for SAR 16,800 along with a copy of a document entitled "Bank Payment Voucher". It also provided a copy of a journal voucher which contains the debit entry for SAR 16,800.

221. The Panel recommends compensation in the amount of USD 4,486 (SAR 16,800) for payment or relief to others. The Panel finds the date of loss to be 5 February 1991.

XIV. THE CLAIM OF SAUDI ARABIAN SAIPEM LIMITED

222. Saudi Arabian Saipem Limited ("Saudi Saipem") is a Saudi Arabian limited liability company engaged in the business of onshore and offshore construction works related to petroleum, gas and petrochemicals.

223. Saudi Saipem seeks compensation in the amount of SAR 403,904 (USD 107,852) and USD 3,833,955 for contract losses, interest on contract losses, financial losses and payment or relief to others. Saudi Saipem seeks compensation in the total amount of USD 3,941,807.

A. Contract losses

1. Facts and contentions

224. Saudi Saipem seeks compensation in the amount of USD 3,250,000 for unpaid retention money. It also seeks compensation in the amount of USD 356,850 for interest on unpaid retention money.

225. Saudi Saipem entered into a contract with the State Organization for Oil Projects ("SCOP") for the completion of the Iraq Crude Oil Pipeline Trans Saudi Arabia Project. Saudi Saipem stated that the project was commissioned in 1987 and the final amounts due to it were only payable after it had furnished to SCOP evidence of due settlement of its tax liability for the year 1987. It further stated that because the tax authorities in Saudi Arabia delayed processing its tax returns for the year 1987, it could only forward the relevant documents to SCOP on 27 November 1990. It further stated that SCOP has not paid the retention money due to Saudi Saipem, despite several reminders.

2. Analysis and valuation

226. The Panel finds that Saudi Saipem had a contract with Iraq for the purposes of the "arising prior to" analysis (see paragraphs 16 and 17 supra).

227. Because the project works were commissioned in 1987, the performance that created the debt in question occurred prior to 2 May 1990. In the article 34 notification, Saudi Saipem was requested to provide a copy of the contract entered into with SCOP. The Panel notes that Saudi Saipem did not respond to the article 34 notification. The Panel finds that the alleged loss for unpaid retention money is outside the jurisdiction of the Commission and is not compensable under Security Council resolution 687 (1991).

228. The Panel finds also that the interest on unpaid retention money is outside the jurisdiction of the Commission and, therefore, not compensable.

3. Recommendation for contract losses

229. The Panel recommends no compensation for contract losses.

B. Financial losses

1. Facts and contentions

230. Saudi Saipem seeks compensation in the amount of USD 227,105 for expenses incurred on mobilising new recruits. Saudi Saipem alleged it repatriated its overseas employees during the second quarter of 1990 and this adversely affected its commercial operations for the year 1990 and during the first half of 1991. It also stated that in order to rebuild its workforce in 1991, Saudi Saipem spent additional amounts in recruiting expatriate personnel, including airfares and recruitment agency fees.

2. Analysis and valuation

231. The Panel finds that Saudi Saipem failed to establish that the loss suffered was directly related to Iraq's invasion and occupation of Kuwait and it also did not provide sufficient evidence to substantiate its loss of "mobilization and connected costs".

232. With respect to its recruitment costs, Saudi Saipem provided copies of invoices from Al-Karim Manpower Corporation Limited, Bangkok, Thailand. These invoices were issued between 30 July 1990 and 21 March 1992. The Panel notes that the invoice issued in July 1990 was for an amount of USD 3,500; four invoices issued in the months of June and July 1991 were for a total amount of USD 98,370; and one invoice issued in March 1992 was for an amount of USD 125,235. These invoices have been stamped as paid.

233. The Panel finds that Saudi Saipem did not submit sufficient evidence to establish that the recruitment expenses incurred were the direct result of Iraq's invasion and occupation of Kuwait. Specifically, Saudi Saipem did not identify the projects for which it was recruiting or how the workforce for these projects was affected by Iraq's invasion and occupation of Kuwait.

3. Recommendation for financial losses

234. The Panel recommends no compensation for financial losses.

C. Payment or relief to others

235. Saudi Saipem seeks compensation in the amount of SAR 403,904 (USD 107,852) for expenses incurred in repatriating 161 employees. Saudi Saipem stated that it repatriated its overseas employees due to the "war operations in the neighborhood of Dhahran".

236. In support of its claim, Saudi Saipem provided a list of 161 employees with their nationality and the cost of airfares and the corresponding invoices from travel agencies. The invoices provided full flight information including the date of the flight, the date of the ticket purchase and the cost of the flight. The invoices have a stamp verifying that the project was charged for the costs and they have been stamped as paid.

237. The Panel finds that Saudi Saipem provided sufficient evidence to substantiate a claim for evacuation costs and that the loss is compensable to the extent that the costs are "temporary and extraordinary expenses". Accordingly, the Panel recommends compensation for the difference between the normal costs of mobilisation and the costs incurred during this repatriation.

238. The Panel recommends SAR 96,000 for compensation for payment or relief to others.

D. Summary of recommendations for Saudi Saipem

239. Based on the foregoing findings, the Panel recommends compensation in the amount of USD 25,634 (SAR 96,000).

XV. SUMMARY OF RECOMMENDED COMPENSATION BY CLAIMANT

240. Based on the foregoing, the Panel recommends the following amounts of compensation for direct losses suffered by the claimants as a result of Iraq's invasion and occupation of Kuwait:

Table 6: Recommended compensation for the eleventh instalment

Claimant	Claim Amount USD	Recommended Amount USD
Abahsain Secem Limited for Electrical Works	1,945,268	nil
Abu Al-Enain & Jastaniah Co., Ltd.	3,679,049	nil
Al-Ghurery Company for Trading & Contracting	5,060,308	nil
Al Harbi Trading & Contracting Co. Ltd	1,722,883	nil
Al-Hugayet Trading & Contracting Est.	1,198,880	6,734
Ali Awad Al-Qahtani & Bros. Co.	218,034	nil
Alissa Chemaco Co. Ltd.	1,564,187	nil
Al Taif Company for Operation-Maintenance and Contracting Limited	3,636,614	nil
Arabian Lamah Co. Ltd.	5,120,981	nil
Awrad United Trading Co. Ltd.	614,361	nil
Chiyoda Petrostar Ltd.	20,734,289	nil
Gustav Epple Arabia Limited	3,989,842	nil
Metito Arabia Industries Limited	425,610	nil
Mohammed A. Al-Swailem Co. Ltd for Commerce & Cont.	1,880,725	16,549
Nesma & Al Fadl Contracting Co. Ltd.	4,486	4,486
Saudi Amoudi Group Co., Ltd.	630,848	nil
Saudi Arabian Saipem Limited	3,941,807	25,634
Saudi Letco. Co., Ltd.	654,205	nil

Claimant	Claim Amount USD	Recommended Amount USD
Trans Middle East Co. for Trading & Contracting	465,878	nil

Geneva, 7 December 1999

(Signed) Mr. Pierre Genton
Commissioner

(Signed) Mr. Vinayak Pradhan
Commissioner

(Signed) Mr. John Tackaberry
Chairman

Annex IX

Decision concerning the eleventh instalment of E3 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the eleventh instalment of "E3" claims, covering 19 claims, 1/

Noting that the Panel, in paragraph 32 of its report and recommendations, does not purport to create a new or higher evidentiary standard than that set out in the Governing Council's decisions,

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report. The aggregate amount awarded, based on the recommendations contained in paragraph 240 of the report, is as follows:

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* Previously issued as document S/AC.26/Dec.89 (2000).

[1] The text of the report appears in document S/AC.26/2000/4 (annex VIII above).

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Saudi Arabia	4	15	57,488,255	53,403

3. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)),

4. Recalls that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), the Government of the Kingdom of Saudi Arabia shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

5. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to the Government of the Kingdom of Saudi Arabia.

Annex X

Report and recommendations made by the Panel of Commissioners concerning the twelfth instalment of E3 claims*

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* Previously issued as document S/AC.26/2000/5.

CONTENTS

	Paragraphs	Page
Introduction	1	398
I. PROCEDURAL HISTORY	2 - 9	398
A. The nature and purpose of the proceedings . .	2 - 3	398
B. The procedural history of the claims in the twelfth instalment	4 - 7	398
C. Amending claims after filing	8	399
D. The claims	9	400
II. LEGAL FRAMEWORK	10 - 31	401
A. Applicable law	10	401
B. Liability of Iraq	11	401
C. The "arising prior to" clause	12 - 13	402
D. Application of the "direct loss" requirement	14 - 15	402
E. Loss of profits	16 - 17	403
F. Date of loss	18	404
G. Interest	19 - 20	404
H. Currency exchange rate	21 - 23	404
I. Evacuation losses	24	405
J. Valuation	25 - 27	405
K. Evidentiary requirements	28 - 31	405
III. CLAIM OF CHINA METALLURGICAL CONSTRUCTION CORPORATION	32 - 76	407
A. Contract losses (Iraq)	35 - 45	409
B. Contract losses (Kuwait)	46 - 54	411
C. Loss of tangible property	55 - 66	413
D. Payment or relief to others	67 - 74	415
E. Interest	75	417
F. Recommendation for China Metallurgical .	76	417
IV. CLAIM OF ERECTION AND INDUSTRIAL SERVICES COMPANY	77 - 102	419
A. Contract losses	79 - 89	420
B. Loss of profits	90 - 93	422
C. Loss of tangible property	94 - 97	423
D. Subsidiary claim	98 - 100	423
E. Interest	101	424
F. Recommendation for Erection and Industrial .	102	424
V. CLAIM OF EMAN ESTABLISHMENT FOR CONTRACTING . . .	103 - 131	427

A.	Contract losses	105 - 118	428
	B. Loss of tangible property	119 - 122	430
	C. Payment or relief to others	123 - 129	431
	D. Interest	130	432
	E. Recommendation for Eman	131	432
VI.	CLAIM OF EL-TADAMONE-EL ARABY COMPANY FOR CONTRACTING	132 - 175	433
	A. Contract losses	133 - 148	434
	B. Loss of profits	149 - 151	436
	C. Loss of tangible property	152 - 155	437
	D. Payment or relief to others	156 - 167	437
	E. Financial losses	168 - 173	439
	F. Interest	174	440
	G. Recommendation for El Tadamone	175	441
VII.	CLAIM OF LINDNER AKTIENGESELLSCHAFT	176 - 192	443
	A. Contract losses	177 - 185	444
	B. Loss of tangible property	186 - 188	445
	C. Loss of profits	189 - 191	446
	D. Recommendation for Lindner	192	446
VIII.	CLAIM OF MANNESMANN DEMAG HÜTTENTECHNIK.	193 - 199	447
	A. Loss of tangible property	194 - 198	448
	B. Recommendation for Mannesmann	199	449
IX.	CLAIM OF NEW TEL AVIV CENTRAL BUS STATION	200 - 232	451
	A. Income producing property	201 - 210	452
	B. Compensatory payments to tenants	211 - 213	454
	C. Real property losses	214 - 216	454
	D. Payment or relief to others	217 - 222	455
	E. Financial losses	223 - 227	456
	F. Damage to reputation	228 - 231	457
	G. Recommendation for Central Bus Station . . .	232	458
X.	CLAIM OF MORANDO IMPIANTI I.I.M.C. S.p.A	233 - 247	459
	A. Contract losses	234 - 239	460
	B. Loss of tangible property	240 - 243	461
	C. Bank account in Iraq	244 - 246	462
	D. Recommendation for Morando	247	462
XI.	CLAIM OF V.I.P.P. S.p.A	248 - 256	463
	A. Loss of tangible property	250 - 255	464

B. Recommendation for Vipp 256 465

XII. CLAIM OF NAZIR AND COMPANY (PRIVATE) LIMITED . . 257 - 268 467
A. Loss of tangible property . . . . 258 - 264 468
B. Bank account in Iraq . . . . 265 - 267 469
C. Recommendation for Nazir 268 470

XIII. CLAIM OF NAFTOBUDOWA HOLDING COMPANY. . . . . . . 269 - 290 471
A. Contract losses . . . . 270 - 281 472
B. Loss of earnings . . . . 282 - 284 474
C. Evacuation losses . . . . 285 - 287 474
D. Interest 288 475
E. Claim preparation costs 289 475
F. Recommendation for Naftobudowa 290 475

XIV. CLAIM OF SÖRMAŞ SÖĞÜT REFRAKTER MALZEMELERI AŞ . 291 - 297 477
A. Contract losses . . . . 292 - 296 478
B. Recommendation for Sörmaş 297 479

XV. CLAIM OF CLEVELAND BRIDGE AND ENGINEERING MIDDLE EAST (PVT) LTD . . . . 298 - 304 481
A. Loss of profits . . . . 299 - 303 482
B. Recommendation for Cleveland 304 483

XVI. CLAIM OF DAL STERLING GROUP PLC . . . . 305 - 322 485
A. Loss of earnings . . . . 306 - 313 486
B. Payment or relief to others . . . . 314 - 319 488
C. Financial losses . . . . 320 - 321 489
D. Recommendation for Dal Sterling 322 490

XVII. RECOMMENDATIONS 323 491

LIST OF TABLES

		Page
1.	CHINA METALLURGICAL'S CLAIM	408
2.	RECOMMENDED COMPENSATION FOR CHINA METALLURGICAL	417
3.	ERECTION AND INDUSTRIAL'S CLAIM	420
4.	ERECTION AND INDUSTRIAL'S SUBSIDIARY CLAIM	424
5.	RECOMMENDED COMPENSATION FOR ERECTION AND INDUSTRIAL	424
6.	EMAN'S CLAIM	428
7.	RECOMMENDED COMPENSATION FOR EMAN	432
8.	EL TADAMONE'S CLAIM	434
9.	RECOMMENDED COMPENSATION FOR EL TADAMONE	441
10.	LINDNER'S CLAIM	444
11.	RECOMMENDED COMPENSATION FOR LINDNER . .	446
12.	MANNESMANN'S CLAIM	448
13.	RECOMMENDED COMPENSATION FOR MANNESMANN .	449
14.	CENTRAL BUS STATION'S CLAIM	452
15.	RECOMMENDED COMPENSATION FOR CENTRAL BUS STATION	458
16.	MORANDO'S CLAIM	460
17.	RECOMMENDED COMPENSATION FOR MORANDO . .	462
18.	VIPP'S CLAIM	464
19.	RECOMMENDED COMPENSATION FOR VIPP	465
20.	NAZIR'S CLAIM	468
21.	RECOMMENDED COMPENSATION FOR NAZIR . . .	470
22.	NAFTOBUDOWA'S CLAIM	472
23.	RECOMMENDED COMPENSATION FOR NAFTOBUDOWA	475
24.	SÖRMAŞ'S CLAIM	478
25.	RECOMMENDED COMPENSATION FOR SÖRMAŞ . . .	479
26.	CLEVELAND BRIDGE'S CLAIM	482
27.	RECOMMENDED COMPENSATION FOR CLEVELAND BRIDGE	483
28.	DAL-STERLING'S CLAIM	486
29.	RECOMMENDED COMPENSATION FOR DAL-STERLING	490

Introduction

1. The Governing Council of the United Nations Compensation Commission (the "Commission") appointed the present Panel of Commissioners (the "Panel"), composed of Messrs. Werner Melis (Chairman), David Mace and Sompong Sucharitkul, at its twenty-second session in October 1996 to review construction and engineering claims filed with the Commission on behalf of corporations and other legal entities in accordance with the relevant Security Council resolutions, the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules") and other Governing Council decisions. This report contains the recommendations to the Governing Council by the Panel, pursuant to article 38(e) of the Rules, concerning fourteen claims included in the twelfth instalment. Each of the claimants seeks compensation for loss, damage or injury allegedly arising out of Iraq's 2 August 1990 invasion and subsequent occupation of Kuwait. The claims submitted to the Panel in this instalment and addressed in this report were selected by the secretariat of the Commission from among the construction and engineering claims (the "E3 Claims") on the basis of criteria established under the Rules.

I. PROCEDURAL HISTORY

A. The nature and purpose of the proceedings

2. The status and functions of the Commission are set forth in the report of the Secretary-General pursuant to paragraph 19 of Security Council resolution 689 (1991) dated 2 May 1991 (S/22559). Pursuant to that report, the Commission is a fact-finding body that examines claims, verifies their validity, evaluates losses, recommends compensation, and makes payment of awards.

3. The Panel has been entrusted with three tasks in its proceedings. First, the Panel determines whether the various types of losses alleged by the claimants are within the jurisdiction of the Commission. Second, the Panel verifies whether the alleged losses are in principle compensable and had in fact been incurred by a given claimant. Third, the Panel determines whether these compensable losses were incurred in the amounts claimed.

B. The procedural history of the claims in the twelfth instalment

4. On 27 July 1999, the Panel issued the procedural order relating to the claims. None of the claims presented complex issues, voluminous documentation or extraordinary losses that would require the Panel to

classify any of the claims as unusually large or complex within the meaning of article 38(d) of the Rules. The Panel thus decided to complete its review of the claims within 180 days of 27 July 1999, pursuant to article 38(c) of the Rules.

5. The Panel performed a thorough and detailed factual and legal review of the claims. The Panel considered the evidence submitted by claimants in reply to requests for information and documents. It also considered Iraq's responses to the factual and legal issues raised in the twenty-seventh report of the Executive Secretary issued on 26 April 1999, in accordance with article 16 of the Rules.

6. After a review of the relevant information and documentation, the Panel made initial determinations as to the compensability of the loss elements of each claim. Pursuant to article 36 of the Rules, the Panel retained as expert consultants accounting and loss adjusting firms, both with international and Persian Gulf experience, to assist the Panel in the quantification of losses incurred in large construction projects. The Panel then directed its expert consultants to prepare comprehensive reports on each of the claims.

7. In drafting this report, the Panel has not included specific citations to restricted or non-public documents that were produced or made available to it for the completion of its work.

C. Amending claims after filing

8. The Panel notes that the period for filing category "E" claims expired on 1 January 1996. The Governing Council permitted claimants to file unsolicited supplements up to and including 11 May 1998. A number of the claimants included in the twelfth instalment had submitted several supplements to their claimed amount up to 11 May 1998. In this report, the Panel has taken into consideration such supplements up to 11 May 1998. The Panel has only considered those losses contained in the original claim, as supplemented by the claimants, up to 11 May 1998, except where such losses have been withdrawn or reduced by the claimants. Where the claimants reduced the amount of their losses the Panel has considered the reduced amount. This, however, does not preclude corrections relating to arithmetical and typographical errors.

D. The claims

9. This report contains the Panel's findings for losses allegedly caused by Iraq's invasion and occupation of Kuwait with respect to the following claims:

(a) China Metallurgical Construction Corporation, a state enterprise licensed in the People's Republic of China, which seeks compensation in the amount of USD 24,909,175;

(b) Erection and Industrial Services Company, a publicly owned enterprise organised according to the laws of the Arab Republic of Egypt, which seeks compensation in the amount of USD 11,152,035;

(c) Eman Establishment for Contracting Nan Tawfik Boules, a sole proprietor registered according to the laws of the Arab Republic of Egypt, which seeks compensation in the amount of USD 7,290,794;

(d) El-Tadamone El-Araby Co. for Contracting, a partnership organised according to the laws of the Arab Republic of Egypt, which seeks compensation in the amount of USD 5,639,113;

(e) Lindner Aktiengesellschaft, a corporation organised according to the laws of the Federal Republic of Germany, which seeks compensation in the amount of USD 330,428;

(f) Mannesmann Demag Hüttentechnik, a corporation organised according to the laws of the Federal Republic of Germany, which seeks compensation in the amount of USD 51,445;

(g) The New Tel Aviv Central Bus Station Limited, a corporation organised according to the laws of the State of Israel, which seeks compensation in the amount of USD 8,245,000;

(h) MORANDO IMPIANTI-Impianti per l'Industria dei materiali da Costr. S.p.A, a corporation organised according to the laws of the Italian Republic, which seeks compensation in the amount of USD 4,763,303;

(i) V.I.P.P. S.p.A., a corporation organised according to the laws of the Italian Republic, which seeks compensation in the amount of USD 471,836;

(j) Nazir and Company (Private) Limited, a corporation organised according to the laws of the Islamic Republic of Pakistan, which seeks compensation in the amount of USD 2,243,080;

(k) Construction Engineering and Maintenance, NAFTOBUDOWA Holding Co., a joint stock company organised according to the laws of the Republic of Poland, which seeks compensation in the amount of USD 4,643,401;

(l) Sörmaş Söğüt Refrakter Malzemeleri AŞ, a corporation organised according to the laws of the Republic of Turkey, which seeks compensation in the amount of USD 85,839;

(m) Cleveland Bridge and Engineering Middle East (Private) Limited, a corporation organised according to the laws of the United Arab Emirates, which seeks compensation in the amount of USD 5,989,489;

(n) Dal Sterling Group PLC, a corporation organised according to the laws of the United Kingdom of Great Britain and Northern Ireland, which seeks compensation in the amount of USD 267,587.

II. LEGAL FRAMEWORK

A. Applicable law

10. As set forth in paragraphs 16-18 and 23 of the "Report and Recommendations Made by the Panel of Commissioners Concerning the First Instalment of 'E3' Claims (S/AC.26/1998/13) (the "First Report"), the Panel determined that paragraph 16 of Security Council resolution 687 (1991) reaffirmed the liability of Iraq and defined the jurisdiction of the Commission. The Panel applied Security Council resolution 687 (1991), other relevant Security Council resolutions, decisions of the Governing Council, and, where necessary, other relevant rules of international law.

B. Liability of Iraq

11. As set forth in paragraph 16 of the "Report and Recommendations Made by the Panel of Commissioners concerning the Third Instalment of 'E3' Claims (S/AC.26/1999/1) (the "Third Report"), the Panel determined that "Iraq" as used in decision 9 (S/AC.26/1992/9) means the Government of Iraq, its political subdivisions, or any agency, ministry, instrumentality or entity (notably public sector enterprises) controlled by the Government of Iraq. At the time of Iraq's invasion and occupation of Kuwait, the Government of

Iraq regulated all aspects of economic life other than some peripheral agriculture, services and trade.

C. The "arising prior to" clause

12. In its First Report, the Panel adopted the following interpretation of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) with respect to contracts to which Iraq was a party:

(a) the phrase "without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through normal mechanisms" was intended to have an exclusionary effect on the Commission's jurisdiction, i.e., that such debts and obligations could not be brought before the Commission;

(b) the period described by "arising prior to 2 August 1990" should be interpreted with due consideration to the purpose of the phrase, which was to exclude Iraq's existing bad debts from the Commission's jurisdiction;

(c) the terms "debts" and "obligations" should be given the customary and usual meanings applied to them in ordinary discourse; and

(d) the use of a three month payment delay period to define the jurisdictional period is reasonable and consistent both with the economic reality in Iraq prior to the invasion and with ordinary commercial practices.

13. The Panel finds that a claim relating to a "debt or obligation arising prior to 2 August 1990" means a debt for payment that is based on work performed or services rendered prior to 2 May 1990.

D. Application of the "direct loss" requirement

14. The Governing Council's decision 7 (S/AC.26/1991/7/Rev.1), decision 9 (S/AC.26/1992/9) and decision 15 (S/AC.26/1992/15) provide specific instructions to the Panel regarding the interpretation of the "direct loss" requirement. Applying these decisions, the Panel examined the loss types presented in the claims to determine whether, with respect to each loss element, the requisite causal link - a "direct loss" - was present.

15. The Panel made the following findings regarding the meaning of "direct loss":

(a) with respect to physical assets in Iraq and in Kuwait on 2 August 1990, a claimant can prove a direct loss by demonstrating that the breakdown in civil order in those countries, which resulted from Iraq's invasion and occupation of Kuwait, caused the claimant to evacuate its employees and that the evacuation resulted in the abandonment of the claimant's physical assets;

(b) with respect to losses relating to contracts to which Iraq was a party, Iraq may not rely on force majeure or similar legal principles as a defence to its obligations under the contract;

(c) with respect to losses relating to contracts to which Iraq was not a party, a claimant may prove a direct loss if it can establish that Iraq's invasion and occupation of Kuwait or the breakdown in civil order in Iraq or Kuwait following the invasion caused the claimant to evacuate the personnel needed to perform the contract;

(d) costs incurred in taking reasonable steps to mitigate the losses incurred by the claimant are direct losses, bearing in mind that the claimant was under a duty to mitigate any losses that could reasonably be avoided after the evacuation of its personnel from Iraq or Kuwait; and

(e) the loss of use of funds on deposit in Iraqi banks is not a direct loss unless the claimant can demonstrate that Iraq was under a contractual or other specific duty to exchange those funds for convertible currencies and to authorize the transfer of the converted funds out of Iraq, and that this exchange and transfer was prevented by Iraq's invasion and occupation of Kuwait.

E. Loss of profits

16. In order to substantiate a claim for loss of profits, a claimant must prove that it had an existing contractual relationship at the time of the invasion. Second, a claimant must prove that the continuation of the relationship was rendered impossible by Iraq's invasion and occupation of Kuwait. Finally, profits should be measured over the life of the contract. A claimant must demonstrate that the contract would have been profitable as a whole. Thus, a claimant must demonstrate that it would have been profitable to complete the contract, not just that the contract was profitable at a single moment in time.

17. Calculations of a loss of profits claim should take into account the inherent risks of the particular project and the ability of a claimant to

realize a profit in the past. The speculative nature of some projects requires the Panel to view the evidence submitted with a critical eye. In order to establish with "reasonable certainty" a loss of profit claim, the Panel requires that a claimant submit not only the contracts and invoices related to the various projects, but also detailed financial statements, including audited statements where available, management reports, budgets, accounts, time schedules, progress reports, and a breakdown of revenues and costs, actual and projected for the project.

F. Date of loss

18. The Panel must determine "the date the loss occurred" within the meaning of Governing Council decision 16 (S/AC.26/1992/16) for the purpose of recommending compensation for interest and for the purpose of determining the appropriate exchange rate to be applied to losses stated in currencies other than in United States dollars. Where applicable, the Panel has determined the date of loss for each claim.

G. Interest

19. According to decision 16 (S/AC.26/1992/16), "[i]nterest will be awarded from the date the loss occurred until the date of payment, at a rate sufficient to compensate successful claimants for the loss of use of the principal amount of the award." In decision 16 the Governing Council further specified that "[i]nterest will be paid after the principal amount of awards," while postponing decisions on the methods of calculation and payment of interest.

20. The Panel finds that interest shall run from the date of loss, or, unless otherwise established, from 2 August 1990.

H. Currency exchange rate

21. While many of the costs incurred by the claimants were denominated in currencies other than United States dollars, the Commission issues its awards in that currency. Therefore, the Panel is required to determine the appropriate rate of exchange to apply to losses expressed in other currencies.

22. The Panel finds that the exchange rate set forth in the contract is the appropriate rate for losses under the relevant contracts because this was specifically bargained for and agreed to by the parties.

23. For non-contractual losses, the Panel finds the appropriate exchange rate to be the prevailing commercial rate, as evidenced by the United Nations Monthly Bulletin of Statistics on the date of loss, or, unless otherwise established, on 2 August 1990.

I. Evacuation losses

24. In accordance with paragraph 21(b) of decision 7 of the Governing Council, the Panel finds that the costs associated with evacuating and repatriating employees from Iraq between 2 August 1990 and 2 March 1991 are compensable to the extent that such costs are proven by the claimant. Compensable costs consist of temporary and extraordinary expenses relating to evacuation and repatriation, including transportation, food and accommodation.

J. Valuation

25. The Panel developed, with the assistance of the secretariat and the Panel's expert consultants, a verification program that addresses each loss item. The valuation analysis used by the Panel's expert consultants ensures clarity and consistency in the application of certain valuation principles to the construction and engineering claims.

26. After receipt of all claim information and evidence, the Panel's expert consultants applied the verification program. Each loss element was analysed individually according to a set of instructions. The expert consultants' analysis resulted in a recommendation of compensation in the amount claimed, an adjustment to the amount claimed, or a recommendation of no compensation for each loss element. In those instances where the Panel's expert consultants were unable to respond decisively, the issue was brought to the attention of the Panel for further discussion and development.

27. For tangible property losses, the Panel adopted historical cost minus depreciation as its primary valuation method.

K. Evidentiary requirements

28. Pursuant to article 35(3) of the Rules, corporate claims must be supported by evidence sufficient to demonstrate the circumstances and amount of the claimed loss. The Governing Council has made it clear in paragraph 5 of decision 15 that, with respect to business losses, there "will be a need for detailed factual descriptions of the circumstances of the claimed loss, damage or injury" in order to recommend compensation.

29. The category "E" claim form requires all corporations and other legal entities that have filed claims to submit with their claim form "a separate statement explaining its claim ('Statement of Claim'), supported by documentary and other appropriate evidence sufficient to demonstrate the circumstances and the amount of the claimed loss".

30. In those cases where the original submission of the claim inadequately supported the alleged loss, the secretariat prepared and issued a written communication to the claimant requesting specific information and documentation regarding the loss (the "claim development letter"). In reviewing the subsequent submissions, the Panel noted that in many cases the claimant still did not provide sufficient evidence to support its alleged losses.

31. The Panel is required to determine whether these claims are supported by sufficient evidence and, for those that are so supported, must recommend the appropriate amount of compensation for each compensable claim element. This requires the application of relevant principles of the Commission's rules on evidence and an assessment of the loss elements according to these principles. The recommendations of the Panel are set forth below.

III. CLAIM OF CHINA METALLURGICAL CONSTRUCTION CORPORATION

32. China Metallurgical Construction Corporation ("China Metallurgical") is a limited liability entity organised according to the laws of the People's Republic of China. Its main activities are designing and construction work relating to engineering projects for mining, civil and industrial projects. China Metallurgical also supplies services particularly in the areas of technical and labour contracts. China Metallurgical seeks compensation for losses arising from contract, tangible property losses and payment or relief to others totalling USD 24,909,175. China Metallurgical has also submitted claims for interest.

33. China Metallurgical changed its name on 19 October 1994 to China Metallurgical Construction (Group) Corporation.

34. In its reply to a claim development letter, China Metallurgical had included an additional claim relating to "expenses in China" which it asserted totalled USD 76,589. The Panel has only considered those losses contained in the original claim except where such losses have been withdrawn or reduced by China Metallurgical. Where China Metallurgical reduced the amount of losses in its reply to the claim development letter, the Panel has considered the reduced amount.

Table 1. CHINA METALLURGICAL'S CLAIM

Claim element	Claim amount (USD)
Contract losses (Iraq)	12,602,763
Contract losses (Kuwait)	9,125,625
Loss of tangible property	2,463,854
Payment or relief to others	716,933
Interest	(--)
Total	24,909,175

A. Contract losses (Iraq)

1. Facts and contentions

(a) Labour supply contracts

35. During the period from 1983 to 1985, China Metallurgical signed five labour supply contracts with various Iraqi entities. The contracts were as follows:

i. Labour supply contract for the Taji-Steel Structure Factory;

ii. Labour supply contract for the Delianya Transformer Factory;

iii. Labour supply contract for the Geological team;

iv. Labour supply contract for the Basrah Steel Plant; and

v. Labour supply contract for the Basrah Steel Pipe Factory.

36. China Metallurgical stated that at the time of Iraq's invasion and occupation of Kuwait, it had completed the services relating to the Taji-Steel Structure Factory, the Delianya Transformer Factory and for the Geological team.

37. With respect to the labour supply contracts for Basrah Steel Plant and Basrah Steel Pipe Factory, China Metallurgical alleged that it was still providing a service on 2 August 1990. The Basrah Steel Plant and Basrah Steel Pipe factory agreements had been extended on 22 January 1990 and 4 April 1990 respectively for a period of twelve months. China Metallurgical asserted that on 2 August 1990 it was still providing services to the Iraqi state enterprises in respect of the extended agreements and that it continued to perform in terms of the contracts until the end of August 1990.

38. The terms of payment for the five labour supply contracts were subject to a number of deferred payment arrangements and China Metallurgical alleged that "it was entitled to receive payments from Iraq during the period from 1990-1992 in the amount of USD 8,759,268.92".

(b) 17 sub-stations contract

39. China Metallurgical stated that it signed a contract in July 1985 for the construction of 17 sub-stations with the Iraq Ministry of Industry and Mineral Electric Organization Small Project Country Electric Engineering Bureau. China Metallurgical indicated that the project was completed in October 1988. It asserted that as at 2 August 1990, it had received a total payment of USD 38,442 and there was an amount outstanding in the total sum of USD 3,666,357 and unreleased retention "fees" of USD 177,137. China Metallurgical seeks compensation for the amount of USD 3,843,494 relating to the 17 sub-stations contract.

2. Analysis and valuation

40. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) China Metallurgical had contracts with Iraq with respect to the labour supply contracts and the 17 sub-stations contract.

41. The Panel finds that the losses allegedly incurred by China Metallurgical with respect to the Taji-Steel Structure Factory contract, Delianya Transformer Factory contract, the Geological team contract and 17 sub-stations contract, are based on services provided prior to 2 May 1990. Accordingly, the claim for the losses relating to these contracts is outside the jurisdiction of the Commission.

42. In addition, part of those debts were covered by deferred payment agreements. The Panel finds that for the purpose of Security Council resolution 687 (1991) the deferred payment agreements did not have the effect of novating the debt. Accordingly, claims for such losses are outside the jurisdiction of this Commission.

43. With respect to the labour supply contracts for Basrah Steel Plant and Basrah Steel Pipe Factory, the Panel finds that China Metallurgical was still providing services at the time of Iraq's invasion and occupation of Kuwait. Accordingly, the claims relating to performances from 2 May 1990 until the end of August 1990 are within the jurisdiction of the Commission. The Panel finds that, with respect to the Basrah Steel Plant and Basrah Steel Pipe Factory, China Metallurgical submitted confirmations of the amounts due under the contracts and schedules of certificates indicating when the services were rendered.

44. China Metallurgical claimed USD 3,884,447 for contract losses relating to the Basrah Steel Plant and Basrah Steel Pipe Factory and of this claimed amount, the Panel finds that China Metallurgical did submit sufficient evidence which demonstrates that it is entitled to compensation in the amount of USD 227,193 for work performed between 2 May 1990 and 31 August 1990.

3. Recommendation

45. The Panel recommends compensation in the amount of USD 227,193 for contract losses relating to the contracts in Iraq.

B. Contract losses (Kuwait)

1. Facts and contentions

(a) W3-2 Project

46. China Metallurgical seeks compensation of KWD 1,708,223 (USD 6,171,298) arising out of a sub-agreement that it entered into on 8 April 1985 ("the sub-agreement") for the construction of the W3-2 Project with Khalifa Al-Jassim Trading & Contracting Co ("Khalifa Co"), a Kuwaiti based entity. The original subcontractor of the project was Mountain Blue Commercial Co. who assigned all of its rights and obligations of the sub-agreement to China Metallurgical upon approval of Khalifa Co. In terms of the subcontract, China Metallurgical was to undertake the building of 334 houses, a school and twelve sub-stations. The contract value was the amount of KWD 3,037,523 (USD 10,973,660).

47. China Metallurgical stated that it began construction in September 1985 and completed it in March 1988. It alleged that the maintenance period was extended continuously up to the date of Iraq's invasion of Kuwait.

(b) Rabiya Housing Project ("163 Project")

48. China Metallurgical entered into three agreements on 28 July 1986 ("the subcontracts") with a Kuwaiti registered company, M/S Arabian Building and Construction Company W.L.L. ("the contractor"). The contractor had an agreement with the National Housing Authority of Kuwait ("the main contract") to build, *inter alia*, houses, mosques and groups of shops.

49. The three subcontracts related to the supply of labour and equipment and the provision of infrastructure. The subcontract lump sum price was

KWD 2,400,000 for the labour agreement, the subcontract relating to infrastructure supply provided for a lump sum payment of KWD 731,000 and the subcontract agreement for equipment provided for a lump sum of KWD 600,000. China Metallurgical has alleged an amount totalling KWD 817,761 (USD 2,954,327) as remaining unpaid for work performed relating to the subcontracts for which amount it seeks compensation.

50. China Metallurgical alleged that it completed all of its obligations under the subcontracts by September 1989 and at the same time began the performance of the maintenance requirements. Up to 22 February 1989, the contractor had paid China Metallurgical part of the subcontract amounts totalling KWD 2,913,239 (USD 10,524,657), which included a pre-payment. China Metallurgical contended that the "maintenance period and its negotiation for the payment of the sub-contract were frustrated and destroyed by Iraq's unlawful invasion and occupation of Kuwait on 2 August 1990".

51. China Metallurgical alleged that it sought to contact the other contracting parties after the cessation of hostilities, but it received no response from them.

2. Analysis and valuation

52. This Panel has found that a claimant must provide specific proof that the failure of a Kuwaiti debtor to pay was a direct result of Iraq's invasion and occupation of Kuwait. A claimant must demonstrate that a business debtor was rendered unable to pay due to insolvency or bankruptcy caused by the destruction of its business during Iraq's invasion and occupation of Kuwait. China Metallurgical has not supplied this proof. China Metallurgical only submitted copies of a telephone record between itself and its agent in Kuwait which purports to confirm that the debtors were no longer in existence.

53. The Panel finds that China Metallurgical failed to submit sufficient evidence that its claim for contract losses in Kuwait arose as a direct result of Iraq's invasion and occupation of Kuwait on 2 August 1990.

3. Recommendation

54. The Panel recommends no compensation for contract losses in Kuwait.

C. Loss of tangible property

1. Facts and contentions

55. China Metallurgical seeks compensation in the amount of USD 2,463,854 for tangible property losses allegedly arising in Kuwait and Iraq.

56. China Metallurgical asserted that it had 334 personnel at its branch office and work sites in Iraq and eight staff members in Kuwait at the time of Iraq's invasion and occupation of Kuwait. It stated that it evacuated its personnel from both Kuwait and Iraq.

(a) Office in Iraq

57. China Metallurgical seeks compensation for USD 85,775 arising out of the alleged loss of equipment from its office in Iraq. In respect of the Iraq office, China Metallurgical asserted that it entered into an agreement dated 1 October 1990 with a local agent to guard its property ("Trust Agreement I"). This agreement related to a "List of Temporarily Imported Vehicles and Equipment" and a "List of other Vehicles and Equipment" located at China Metallurgical's work site.

(b) AT Barrage Project

58. In addition, the Trust Agreement I required the agent to guard the sealed offices of China Metallurgical. In its reply to a claim development letter, China Metallurgical stated that this material related to "AT Barrage of Ikifil Shinafiya Project". It appears that China Metallurgical was a subcontractor to China State Construction Engineering Corporation. China Metallurgical submitted documentation which indicated that the equipment was in fact imported by China State Construction Engineering Corporation. It asserted that China State Construction Engineering Corporation did authorise China Metallurgical to make the claim to the Commission as China Metallurgical allegedly paid for the equipment. China Metallurgical asserts a loss of USD 552,146.

(c) Basrah Navigation Lock No. 1 Project

59. China Metallurgical stated that it entered into a second agreement dated 1 October 1990 ("Trust Agreement II") with the same agent to guard vehicles, equipment, materials, instruments, spares and steel bars. In its reply to a claim development letter, China Metallurgical asserted that the steel bars that it had imported were rejected by the contractor as being

unsuitable and it was in the process of arranging to re-export them when Iraq's invasion and occupation of Kuwait occurred. China Metallurgical seeks compensation for the full value of the steel bars in the amount of USD 1,167,000. The total compensation claimed, including the steel bars, is USD 1,627,354.

60. China Metallurgical submitted a report dated 29 June 1992 alleging the property was stolen on 21 October 1990.

(d) Office in Kuwait and W3-2 Project

61. With respect to the Kuwait office, China Metallurgical alleged that it purchased office equipment between 1980 and 2 August 1990. China Metallurgical seeks compensation in the amount of USD 90,198. China Metallurgical also seeks compensation relating to the W3-2 project, where it was the subcontractor, of USD 108,381.

2. Analysis and valuation

62. In relation to the property alleged to be lost in Iraq and Kuwait, China Metallurgical contended that it lost most of the original invoices. China Metallurgical stated that "the costs of the properties claimed herein are net value calculated on the base of the financial records regularly maintained at Claimant's headquarter". China Metallurgical submitted a "summary of spare parts" and a "detailed list of main materials" and other internally generated schedules of material.

63. With respect to the steel bars, China Metallurgical submitted various invoices dating from 1988 along with importation documentation. It had also submitted a letter of rejection of the steel bars from the Ministry of Agriculture and Irrigation to the Board of the South-Area Customs dated 30 July 1990. This letter contained a request for permission to re-export the steel bars. The letter also made reference to attachments which had details of the "specifications and amount attached hereunder". These attachments were not provided in China Metallurgical's reply to the claim development letter.

64. In order to establish a loss of tangible property claim, this Panel found that a claimant must submit evidence such as certificates of title, receipts, purchase invoices, bills of lading, insurance documents, customs records, inventory lists, asset registers, hire purchase or lease agreements, transportation documents and other relevant documents generated prior to 2 August 1990.

65. The Panel finds that China Metallurgical did not submit sufficient evidence which demonstrated its title to or right to use the assets, the value and the presence of the tangible property located in Iraq and Kuwait. The Panel finds that China Metallurgical failed to submit sufficient evidence to substantiate its loss of tangible property claim.

3. Recommendation

66. The Panel recommends no compensation for tangible property losses in Kuwait and Iraq.

D. Payment or relief to others

1. Facts and contentions

67. China Metallurgical asserted that after 2 August 1990 it decided to withdraw its asserted 334 personnel in Iraq and the eight persons in Kuwait to China. In its reply to the claim development letter, China Metallurgical stated that 337 employees were in Iraq and eight in Kuwait. Of those in Iraq, three travelled by road via Turkey to China. The rest of the employees were transported by bus to Jordan and then by air to China. The transfer to China appears to have occurred towards the end of August 1990. China Metallurgical did assert a total loss of USD 591,786 calculated as follows:

i. Airline tickets - USD 400,595;

ii. Food - USD 8,710;

iii. Bus rental - USD 174,479; and

iv. Lodging USD - 8,002.

68. China Metallurgical also included a claim for alleged payments made to an accountant and an amount allegedly paid to its local agent for guarding China Metallurgical's assets in Iraq. The total asserted loss is USD 125,147. With regard to the accountant, China Metallurgical stated that it incurred costs totalling USD 48,133 with respect to services provided during the course of evacuation relating to accounting, taxation and audit. The second claim related to an alleged payment of USD 77,014 to its agent for guarding China Metallurgical's property.

2. Analysis and valuation

69. With respect to the claim for air fares, China Metallurgical did submit the following evidence of its loss: copies of nine receipts which it stated were in respect of air transport; copies of its employees names and passport numbers; an affidavit signed by two of its emplcyees; copies of a number of contracts identified under the loss of contracts heading; and a "certificate" from Air China. The Panel finds that China Metallurgical did provide sufficient evidence of the evacuation of its employees and having incurred the air fares.

70. The Panel has held that temporary and extraordinary costs of evacuation are compensable. China Metallurgical was requested, in a claim development letter, to explain how its costs would have exceeded the costs in repatriating its employees assuming the normal completion of work in Iraq. In its reply, China Metallurgical indicated that it would have had to pay a "higher airfare than usual". It did not state what the difference in air fare would be nor did it state what the normal air fare would be.

71. The Panel examined the contracts and evidence submitted by China Metallurgical to establish which party was responsible for the air fares with respect to the various contracts that China Metallurgical had submitted. The Panel finds that China Metallurgical submitted some evidence which demonstrates that the employer was responsible for the repatriation costs of some of the workers and that the costs incurred by China Metallurgical exceeded the costs it would have normally incurred in the repatriation of its workers upon natural completion of the contracts by an amount of USD 101,964. With respect to the balance of the claim for the cost of air fares, the Panel finds that China Metallurgical did not submit sufficient evidence to demonstrate that the alleged losses were temporary and extraordinary expenses.

72. China Metallurgical submitted receipts and "advising bills" for bus hire and car rental. With respect to the asserted expenses for lodging and food, China Metallurgical did submit receipts, "advising bills" and several partially translated receipts to support this particular element of the claim. The Panel finds that China Metallurgical did submit sufficient evidence demonstrating a loss in the amount of USD 5,755 relating to the balance of the claim for evacuation costs.

73. The Panel finds that with respect to the alleged payment to the Iraqi accountant and the alleged costs of guarding the property, China

Metallurgical did not submit adequate evidence of payment. It accordingly recommends no compensation for this loss element.

3. Recommendation

74. The Panel recommends USD 107,719 compensation for payment or relief to others.

E. Interest

75. With reference to the issue of interest, the Panel refers to paragraphs 19 and 20 of this report.

F. Recommendation for China Metallurgical

Table 2. RECOMMENDED COMPENSATION FOR CHINA METALLURGICAL

Claim element	Claim amount (USD)	Recommended compensation (USD)
Contract losses (Iraq)	12,602,763	227,193
Contract losses (Kuwait)	9,125,625	nil
Loss of tangible property	2,463,854	nil
Payment or relief to others	716,933	107,719
Interest	(--)	(--)
Total	24,909,175	334,912

76. Based on its findings regarding China Metallurgical's claim, the Panel recommends compensation in the amount of USD 334,912.

IV. CLAIM OF ERECTION AND INDUSTRIAL SERVICES COMPANY

77. Erection and Industrial Services Company ("Erection and Industrial") is an Egyptian registered public sector company involved in the provision of engineering and industrial services. It seeks compensation in the amount of USD 11,152,035 for contract losses, loss of profits, tangible property loss and interest.

78. Erection and Industrial also submitted a subsidiary claim in the event its claim for unremitted contract amounts is not considered compensable. The claim is based on alleged financial losses arising in connection with Erection and Industrial's funds in the Rafidain Bank in Iraq. The total amount claimed in the subsidiary claim is USD 8,249,134.

Table 3. ERECTION AND INDUSTRIAL'S CLAIM

Claim element	Claim amount USD
Contract losses	5,672,453
Loss of profits	959,461
Loss of tangible property	265,779
Interest	4,254,342
Total	11,152,035

A. Contract losses

1. Facts and contentions

79. Erection and Industrial entered into its first contract in Iraq in June 1983 with the Baghdad Electricity Distribution Organization for a contract price of IQD 500,000. On 8 August 1984, Erection and Industrial entered into a second contract with the same party for a contract price of IQD 500,000. It entered into the third contract with the same party in March 1986 for a contract price of IQD 3,000,000. On 29 April 1989, Erection and Industrial entered into a contract with the Baghdad Electricity Distribution Organisation for a contract price of IQD 2,000,000 ("the fourth contract").

80. With respect to the first three contracts, Erection and Industrial seeks compensation for the total amount of USD 3,928,267 representing losses which Erection and Industrial asserted were due and owing to it in convertible Iraqi dinars. These amounts were to be paid to it at the end of the war between Iran and Iraq. Erection and Industrial indicated that at the time of Iraq's invasion and occupation of Kuwait, it had completed its work in relation to the first three contracts, but it did not specify an exact completion date. It stated that "the cease-fire of 20 August 1988" determined the end of the Iran-Iraq war, which determined the "due dates of payment".

81. The fourth contract was for the improvement and upgrading of the electricity distribution network in Baghdad. The period for execution of the contract was 24 months from the date of commencement. Erection and Industrial asserted it commenced the works on 1 July 1989 and was due to complete the works on 1 July 1991. Erection and Industrial stated that at 2 August 1990, it had completed work to the value of IQD 850,000, which represented 42.5 per cent of the contract.

82. Erection and Industrial stated that completion of the fourth contract became impossible as a result of Iraq's invasion and occupation of Kuwait. Erection and Industrial asserted that the employer owed it an amount of IQD 226,475 representing work completed and not paid up to 30 June 1990 (IQD 152,538) and retention monies (IQD 73,937). Erection and Industrial also seeks compensation for an asserted loss of IQD 108,000 representing work completed and not paid from 2 June 1990 to 2 August 1990. It, therefore, asserted a total loss of IQD 334,475 (USD 1,070,321).

83. Erection and Industrial also asserted a loss in respect of the United States dollar portion of the fourth contract. The contract stated that Erection and Industrial was entitled to a payment of 10 per cent of the contract value in United States dollars payable in four equal instalments commencing, according to Erection and Industrial, on 29 July 1989 with the final payment due on 29 April 1990. Erection and Industrial asserted a loss, representing the 10 per cent amount to be remitted, of IQD 210,000.

2. Analysis and valuation

84. The Panel finds for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) that Erection and Industrial, in each case, had a contract with Iraq.

85. The Panel finds that the performance by Erection and Industrial with respect to the first three contracts was completed prior to 2 May 1990 and that the claims for the unremitted convertible Iraqi dinar amounts relate entirely to work that was performed prior to 2 May 1990. Accordingly, the claim for the losses relating to the first three contracts is outside the jurisdiction of the Commission.

86. With respect to the remittable United States dollar portion of the fourth contract, the Panel finds that the amounts were debts and obligations of Iraq arising prior to 2 August 1990. Accordingly, the claim for the losses relating to the remittable portion of the fourth contract is outside the jurisdiction of the Commission.

87. With respect to claims for work completed but allegedly not paid up to 30 June 1990 and from 2 June 1990 to 2 August 1990 under the fourth contract, Erection and Industrial had submitted a copy of the contract and correspondence with the employer. In relation to the retention amount claimed, it would appear that the project was 42.5 per cent completed by 2 August 1990 and could, therefore, be considered to be ongoing.

88. The Panel finds that the evidence submitted by Erection and Industrial is not sufficient to establish its loss and entitlement to the alleged amounts outstanding under the fourth contract and retention monies claimed.

3. Recommendation

89. The Panel recommends no compensation for contract losses.

B. Loss of profits

90. Erection and Industrial stated that Iraq's invasion and occupation of Kuwait prevented it from completing the fourth contract. Erection and Industrial contended that it would have made a profit based on a return of 26 per cent. Erection and Industrial stated that as the unperformed portion of the contract amounted to IQD 1,150,000, it would, based on a return of 26 per cent on that amount, have made a profit of IQD 299,000 (USD 959,461).

91. Erection and Industrial produced an extract from the Iraqi Branch's budget for June 1990 as proof that it was making a profit. Erection and Industrial did not submit audited financial statements, budgets for the project, management accounts, turnover, original bids, profit/loss statements, finance costs and head office costs prepared by or on behalf of

Erection and Industrial for the project. In addition, no evidence of the profitability of its other projects in Iraq was submitted.

92. The Panel finds that Erection and Industrial did not submit sufficient evidence to establish its claim for loss of profits on the fourth contract.

93. The Panel recommends no compensation for loss of profits.

C. Loss of tangible property

94. Erection and Industrial seeks compensation in the amount of IQD 51,806 (USD 265,779) relating to tangible property losses. Erection and Industrial contended that at the time of Iraq's invasion and occupation of Kuwait it departed from Iraq and abandoned its property in Iraq. It asserted that on 17 April 1992, the Government of Iraq issued a decree confiscating the property and assets of foreign companies that had left Iraq after 2 August 1990 and this included the property of Erection and Industrial.

95. Erection and Industrial provided, as evidence of its title to the property, an inventory of its assets in its Iraqi Branch, made for the purpose of preparation of the Branch's budget on 30 June 1990. It did not submit evidence such as certificates of title, receipts, purchase invoices, bills of lading, insurance documents, customs records, inventory lists, asset registers, hire purchase or lease agreements, transportation documents and other relevant documents generated prior to 2 August 1990.

96. The Panel finds that Erection and Industrial did not submit sufficient evidence which demonstrated its title to or right to use the property and that such property was in Iraq prior to 2 August 1990.

97. The Panel recommends no compensation for tangible property losses.

D. Subsidiary claim

98. Erection and Industrial had submitted as a "subsidiary request" an alternative claim, in the event that the claim for unremitted contract losses is considered not compensable. Erection and Industrial seeks, as an alternative, compensation for an alleged loss of USD 8,249,134. It substituted its claim for unremitted contract losses for the amount to its credit in the Rafidain Bank, which allegedly amounted to IQD 919,792 (USD 2,943,334). It calculated its subsidiary claim as detailed in the table below.

Table 4. ERECTION AND INDUSTRIAL'S SUBSIDIARY CLAIM

Claim element	Claim amount USD
Contract losses	1,070,320
Loss of profits	959,461
Loss of tangible property	265,779
Financial losses	2,943,334
Interest	3,010,240
Total	8,249,134

99. The Panel finds that Erection and Industrial failed to prove that the funds in the account have been appropriated, removed, stolen or destroyed and therefore how it suffered any loss.

100. The Panel recommends no compensation for the subsidiary claim

E. Interest

101. As the Panel recommends no compensation on contract losses, there is no need for the Panel to determine the date of loss from which interest would accrue.

F. Recommendation for Erection and Industrial

Table 5. RECOMMENDED COMPENSATION FOR ERECTION AND INDUSTRIAL

Claim element	Claim amount (USD)	Recommended compensation (USD)
Contract losses	5,672,453	nil
Loss of profits	959,461	nil
Loss of tangible property	265,779	nil
Interest	4,254,342	nil
Total	11,152,035	nil

102. Based on its findings regarding Erection and Industrial's claim, the Panel recommends no compensation.

V. CLAIM OF EMAN ESTABLISHMENT FOR CONTRACTING

103. Nan Tawfik Boules is an Egyptian sole proprietor trading as "Eman Establishment for Contracting" ("Eman"). Eman is a provider of electrical constructions and sanitary works. Eman seeks compensation for losses relating to contract, loss of tangible property, payment or relief to others and interest totalling USD 7,290,794.

Table 6. EMAN'S CLAIM

Claim element	Claim amount (USD)
Contract losses	1,598,616
Loss of tangible property	2,417,553
Payment or relief to others	387,457
Interest	2,887,168
Total	7,290,794

104. In its reply to the claim development letter, Eman added a new loss element of loss of profit for an amount of IQD 124,092. The Panel has only considered those losses contained in the original claim except where such losses have been withdrawn or reduced by Eman. Where Eman reduced the amount of losses in its reply to the claim development letter, the Panel has considered the reduced amount.

A. Contract losses

1. Facts and contentions

105. Eman seeks compensation for contract losses and the cost of equipment hire in the amount of USD 1,598,616. Eman signed a contract with the Iraqi Ministry of Industry and Military Industrialization, the General Organization of Electricity Distribution for Governorates on 25 May 1990. The value of the contract was IQD 395,612. The contract related to the construction of the 33kV Lehis line in the Basra region in Iraq ("the project"). Eman was to undertake the construction of steel towers for high tension electricity transmission lines over a distance of approximately 33 kilometres. The project was to be completed within a period of six months. Eman stated that it commenced work on the project on 1 June 1990 and ceased on 2 August 1990.

106. Eman asserted that it was denied permission to leave Iraq by the Iraqi authorities. It contended that in the "first days of the war" the raiding planes struck the project site destroying twenty-two towers which had been erected together with its machinery and a caravan, which it used as a project office. This caravan allegedly contained most of Eman's documents relating to the project.

107. Eman stated that work resumed on the site on 21 September 1991.

108. Eman alleged it completed the work according to the prices stated in the contract despite the prices having "multiplied by more than 5 times".

109. The alleged loss sustained by Eman is for that portion of the work that was completed after 21 September 1991, which, according to Eman, was 75 per cent of the contract value. The amount representing the 75 per cent of the contract value was then multiplied by 150 per cent, which Eman asserted represents its loss for the work undertaken from 21 September 1991 to 2 June 1993. The asserted loss is IQD 451,374.

110. Eman stated that the first taking over certificate for the project was issued on 2 April 1992 and the final certificate was issued on 2 June 1993. It acknowledged that it was paid IQD 438,365 representing the contract price, by the employer.

111. Eman also made a further claim for its retention monies of IQD 44,777. However, in its reply to the claim development letter, Eman stated that it was paid the "retained insurance in full after termination of the maintenance period and finally taking over the work." It would appear, therefore, to have been compensated with respect to the retention monies it claimed amounting to IQD 44,777.

112. Finally, Eman seeks compensation for equipment that it allegedly had to rent to complete the project. It stated a loss of IQD 75,000 in its original statement of claim. This loss element is calculated on the basis of 150 days of hire at IQD 500 per day. In its reply to the claim development letter, Eman asserted that the machines were hired for 90 days at IQD 500 per day, which equals a claimed amount of IQD 45,000.

2. Analysis and valuation

113. The Panel finds for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) that Eman had a contract with Iraq. The Panel finds that the work relating to the contract

was performed after 2 May 1990 and that the claim relating thereto is therefore within the jurisdiction of the Commission.

114. In relation to the increased contract prices claim, Eman did provide a copy of the contract and copies of correspondence with the employer. Eman did not provide evidence of applications for payment, approved payment certificates, interim certificates, progress reports, account invoices and actual payments received.

115. The Panel finds that Eman did not submit any independent evidence that supports its assertion as to the performance and the increased contract costs.

116. With respect to the cost of renting additional equipment, the Panel finds that Eman did not submit any evidence to indicate the equipment hired, the itemised cost thereof, proof of hire, dates of hire and proof of payment.

117. The Panel finds that Eman failed to submit sufficient evidence to support its claim for the increased cost of the contract and the rental of the equipment.

3. Recommendation

118. The Panel recommends no compensation for contract losses.

B. Loss of tangible property

119. Eman seeks compensation for losses relating to tangible property totalling IQD 751,500 (USD 2,417,553). The statement of claim made reference to storage of certain property prior to the commencement of the work on the project. Eman stated that it appointed guards from its regular Egyptian labour force. However, the guards fled when the "war" reached the project site and the "war" allegedly destroyed all Eman's machinery in the open and in the warehouse where some of it had been stored.

120. The Panel finds that Eman did not submit evidence such as certificates of title, receipts, purchase invoices, bills of lading, insurance documents, customs records, inventory lists, asset registers, hire purchase or lease agreements, transportation documents and other relevant documents generated prior to 2 August 1990.

121. The Panel finds that Eman did not submit sufficient evidence which demonstrated its title to or right to use the property and that such property was in Iraq prior to 2 August 1990.

122. The Panel recommends no compensation for tangible property losses.

C. Payment or relief to others

1. Facts and contentions

123. Eman seeks compensation relating to two loss elements, namely, "living expenses on delay times" and "office expenses on delay times." Eman stated that its employees were unable to leave Iraq after 2 August 1990 as the Iraqi employer wanted them to complete the project

124. With respect to the claim for living expenses, Eman had submitted a claim totalling IQD 59,400 (USD 191,088) for living expenses for eight labourers and Mr. Nan Tawfik Boules for 330 days of the alleged stoppage period. Eman also stated in its reply to the claim development letter, that it was responsible for the maintenance of nine people during the stoppage period and 25 during the work period. The cost was calculated at the rate of IQD 20 per day.

125. The claim for office expense on the delay times totals IQD 61,050 (USD 196,369) which are alleged office expenses for 11 months. The office expenses allegedly totalled IQD 5,550 per month. These mainly related to the salaries of the engineer, accountants and clerks as well as the rent costs.

2. Analysis and valuation

126. Eman had provided a list of ten employees which it indicated were employed on the project and their passport numbers. It did not submit any of the following information relating to its employees: family name, first name, employee identification number, Iraqi residency permit number, and passport issuing country. Copies of Eman's payroll records for the employees for the period relevant to the claim (both before and after 2 August 1990) have not been provided. Proof of the alleged amounts paid has not been submitted.

127. With respect to the office expenses, the Panel finds that Eman did not submit a copy of the lease agreement nor have invoices and receipts of the expenses allegedly incurred by Eman been provided. The Panel finds that

there is no explanation proffered as to how Iraq's invasion and occupation of Kuwait caused the losses relating to office expenses.

128. The Panel finds that Eman did not submit sufficient evidence to establish its claim for living expenses and office expenses.

3. Recommendation

129. The Panel recommends no compensation for payment or relief to others.

D. Interest

130. As the Panel recommends no compensation on contract losses, there is no need for the Panel to determine the date of loss from which interest would accrue.

E. Recommendation for Eman

Table 7. RECOMMENDED COMPENSATION FOR EMAN

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	1,598,616	nil
Loss of tangible property	2,417,553	nil
Payment or relief to others	387,457	nil
Interest	2,887,168	nil
Total	7,290,794	nil

131. Based on its findings regarding Eman's claim, the Panel recommends no compensation.

VI. CLAIM OF EL-TADAMONE EL-ARABY COMPANY FOR CONTRACTING

132. El-Tadamone El-Araby Company for Contracting ("El Tadamone") is an Egyptian partnership that performs general contracting, importation, exportation and commercial agency work. El Tadamone seeks compensation for contract losses, loss of profits, loss of tangible property, payment or relief to others, a claim to "cover financial and moral damage resulting from the delay in payment" and interest in the amount of USD 5,639,113.

Table 8. EL TADAMONE'S CLAIM

Claim element	Claim amount USD
Contract losses	1,121,594
Loss of profits	222,375
Loss of tangible property	500,460
Payment or relief to others	1,647,935
Financial losses	1,821,476
Interest	325,273
Total	5,639,113

A. Contract losses

1. Facts and contentions

133. The first contract for which El Tadamone seeks compensation in the amount of USD 611,937 was entered into on 29 January 1986 with the Department of Electricity Distribution of Baghdad for the modernisation of the Baghdad electricity supply ("contract number 1"). The contract value was IQD 1,000,000. This contract was for a duration of 12 months. El Tadamone stated that "[t]he first contract was executed and the works therein described were completed within the period stipulated in the contract. A certificate of completion was delivered to the owner". The amounts allegedly outstanding relate to workers salaries to be remitted in United States dollars.

134. El Tadamone entered into a second contract with the General Establishment of the Distribution of Baghdad Electricity ("contract number 2") on 1 February 1989. This contract related to the establishment of a new residential districts' electricity network and the improvement of the existing network in certain Baghdad neighbourhoods (Karkh District). The

contract value was IQD 2,000,000 and the completion period stipulated in the contract was 24 months. El Tadamone asserted that by 2 August 1990, work totalling IQD 198,000 remained unexecuted "because of the war". El Tadamone asserted that it was the employer who requested suspension of the works.

135. El Tadamone asserted losses arising in respect of the following:

i. IQD 50,000 representing the balance of funds retained by the employer up to 31 December 1991; and

ii. IQD 108,827 which had been "earmarked for transfer...but not yet transferred".

136. El Tadamone also seeks compensation for IQD 256,001 representing the commercial account it had with the "Alrafedain Bank" in Iraq. This amount is reclassified as a financial loss.

137. El Tadamone submitted further claims as contract losses, which are reclassified as unproductive labour costs or payment or relief to others. These claims are considered under the heading "payment or relief to others".

2. Analysis and valuation

138. The Panel finds for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) that El Tadamone had contracts with Iraq in respect of both contracts.

139. The Panel finds that the alleged losses relating to contract number 1 are based on work performed prior to 2 May 1990 and therefore are outside the jurisdiction of the Commission.

140. The Panel finds that part of the work relating to the contract number 2 was performed after 2 May 1990 and therefore such losses are within the jurisdiction of the Commission.

141. El Tadamone had submitted evidence, as proof of the value of the completed work, consisting of a letter from the employer confirming the completed work between 1 February 1989 to 16 September 1990, the date that the employer requested the suspension of the contract. El Tadamone was requested by a claim development letter to submit applications for payment, approved payment certificates, interim certificates, progress reports, account invoices and actual payments received. El Tadamone failed to submit the requested information.

142. The Panel finds that El Tadamone did not submit sufficient evidence for it to determine what portion of the claimed amount of IQD 108,827 related to work performed after 2 May 1990.

143. The claim relating to the retained fund is more appropriately described as retention money.

144. With reference to the retention money, this Panel has held that retention money is a form of security held by an employer to ensure fulfilment by a contractor of its obligations to complete the project and to remedy defects after take over of the completed project by the employer.

145. The Panel has previously recommended compensation for loss of retention money where the project was ongoing on 2 August 1990, the claimant was prevented from terminating the project without fault and had submitted sufficient evidence of the amounts retained and had proven that all interim certificates were paid on a timely basis by the employer.

146. In this case, it would appear that the project was ongoing on 2 August 1990. Indeed, it was suspended at the request of the employer on 16 September 1990. However, the Panel finds that the evidence submitted by El Tadamone is not sufficient to establish its loss and entitlement to the retention money. El Tadamone did not submit evidence establishing that progress payments were made on a timely basis by the employer nor did it provide any interim certificates or progress reports despite being requested to do so in the claim development letter.

147. The Panel finds that El Tadamone did not submit sufficient evidence to establish its loss and entitlement to all or any part of the retention money.

3. Recommendation

148. The Panel recommends no compensation for contract losses.

B. Loss of profits

149. El Tadamone seeks compensation for loss of profits in the amount of IQD 69,300 (USD 222,375). It based the loss of profits amount on 35 per cent of the unexecuted contract value, which it stated was IQD 198,000.

150. The requirements to substantiate a loss of profits claim have been stated by the Panel at paragraphs 16 and 17. El Tadamone only submitted a

copy of a document from the employer confirming the executed portion of the contract. The Panel finds that El Tadamone failed to submit sufficient evidence to substantiate its loss of profits claim.

151. The Panel recommends no compensation for loss of profits.

C. Loss of tangible property

152. El Tadamone seeks compensation for tangible property losses in the amount of IQD 155,961 (USD 500,460). It stated that "as a result of the interruption of the works under the second Contract, resulting from the Gulf war, the company had to leave most of the machines, equipment and furniture behind". The tangible property that El Tadamone asserted that it lost includes raw materials on site, manual instruments, transport, caravans and furniture.

153. El Tadamone provided as evidence of its title to the property, copies of correspondence with the Iraqi customs. El Tadamone did not submit evidence such as certificates of title, receipts, purchase invoices, bills of lading, insurance documents, customs records, inventory lists, asset registers, hire purchase or lease agreements, transportation documents and other relevant documents generated prior to 2 August 1990.

154. The Panel finds that El Tadamone did not submit sufficient evidence that demonstrates its title to or right to use the property and that such property was in Iraq prior to 2 August 1990.

155. The Panel recommends no compensation for tangible property losses.

D. Payment or relief to others

1. Facts and contentions

156. El Tadamone made several claims under the contract heading which are more properly classified as unproductive labour costs. It seeks compensation in the amount of IQD 513,554 (USD 1,647,935) and the claims are as follows:

(a) Salaries

157. El Tadamone stated that at the request of the Iraqi employer it remained in Iraq up until 30 September 1993. It calculated its loss on the basis of the salaries of 12 workers, five engineers and accountants over a

period of 37 months. El Tadamone seeks compensation in the amount of IQD 298,590.

(b) Social security

158. El Tadamone seeks compensation of IQD 35,830 for social security allegedly paid, which had been calculated as 12 per cent of the salary bill for the period relating to the 37 month stay in Iraq, that is, an amount of IQD 298,590.

(c) Travel expenses

159. El Tadamone submitted a claim for evacuation expenses for a total amount of IQD 75,000 calculated on the basis of 150 workers at IQD 500 each.

(d) Pre-paid rent of headquarters in Iraq

160. El Tadamone submitted a claim relating to the rent allegedly paid in respect of its headquarters in Iraq in the amount of IQD 23,666. The rent had been claimed up until 31 December 1993.

(e) Legal adviser's fees in Iraq

161. El Tadamone seeks compensation for "fees for the Iraqi legal adviser" in the amount of IQD 11,042.

(f) Service and publications

162. El Tadamone submitted a claim for IQD 32,426 for the cost of electricity, water, fuel, maintenance services and what it describes as "publications".

(g) Payments for increases in the cost of foodstuffs

163. El Tadamone seeks compensation for the alleged impact on its employees of the increase in the price for basic foodstuff in Iraq allegedly caused by Iraq's invasion and occupation of Kuwait. El Tadamone asserted that "during the thirty seven (37) months of the war the company paid its workers the amount of one thousand Iraqi dinars (IQD 1,000) monthly in order to make life possible for them and to help them provide their families with the minimum of subsistence requirements (1000 x 37 months = IQD 37,000, equaling USD 118,729)".

2. Analysis and valuation

164. The Panel finds that El Tadamone did not provide supporting evidence for the asserted losses. The following information about each employee should have been provided: family name, first name, employee identification number, Iraqi residency permit number, and passport number with issuing country. Copies of El Tadamone's payroll records for the employees for the period relevant to the claim (both before and after 2 August 1990) were also not provided.

165. The Panel finds that El Tadamone did not provide proof of the expenses it allegedly incurred or payment of these alleged expenses. El Tadamone did not provide invoices and receipts of the expenses allegedly incurred by it. Finally, El Tadamone failed to provide a copy of the lease agreement.

166. The Panel finds that the claim for payment or relief to others is not compensable on the grounds that El Tadamone failed to submit sufficient evidence to establish the alleged expenses. In addition, the Panel finds that El Tadamone did not establish how these losses were directly caused by Iraq's invasion and occupation of Kuwait.

3. Recommendation

167. The Panel recommends no compensation for payment or relief to others.

E. Financial losses

1. Facts and contentions

(a) Iraqi Bank account

168. El Tadamone seeks compensation for IQD 256,001 (USD 821,476) for alleged losses arising in connection with the commercial account El Tadamone had with the Rafidain Bank. This amount had originally been classified as a loss under contract, but is more appropriately classified as a financial loss. El Tadamone asserted that the losses had arisen out of the failure by the Rafidain Bank to transfer the funds due to El Tadamone.

(b) Material and moral damage

169. El Tadamone seeks "compensation for material and moral damage" in the amount of USD 1,000,000. It would appear that this claim partly arises out of El Tadamone's alleged purchase of new equipment to replace the equipment

it allegedly could not remove from Iraq. It ultimately stated that it is "within the Commission's discretion to review the company's estimation of damage, taking into account the size of the project in Iraq and the duration of the company's deprivation of the equipment".

170. In addition to the scant information submitted with its statement of claim, El Tadamone stated in its reply to the claim development letter that "[t]his lump sum amount is the claimant Company's estimation of the damage resulting from the interruption of the Company's work, and its deprivation of equipment left behind which could have been utilized to execute work in other projects."

2. Analysis and valuation

(a) Iraqi Bank account

171. El Tadamone produced a copy of its bank statement and asserted that the account was operable until 31 December 1991. El Tadamone is unable to state whether the funds in the bank account were removed, stolen or appropriated. The Panel finds that El Tadamone failed to prove that the funds in the account had been appropriated, removed, stolen or destroyed and, therefore, how it suffered any loss.

(b) Material and moral damage

172. The Panel finds that El Tadamone did not provide evidence in support of its alleged loss.

3. Recommendation

173. The Panel recommends no compensation for financial losses.

F. Interest

174. As the Panel recommends no compensation on contract losses, there is no need for the Panel to determine the date of loss from which interest would accrue.

G. Recommendation for El Tadamone

Table 9. RECOMMENDED COMPENSATION FOR EL TADAMONE

Claim element	Claim amount (USD)	Recommended compensation (USD)
Contract losses	1,121,594	nil
Loss of profits	222,375	nil
Loss of tangible property	500,460	nil
Payment or relief to others	1,647,935	nil
Financial losses	1,821,476	nil
Interest	325,273	nil
Total	5,639,113	nil

175. Based on its findings regarding El Tadamone's claim, the Panel recommends no compensation.

VII. CLAIM OF LINDNER AKTIENGESELLSCHAFT

176. Lindner Aktiengesellschaft ("Lindner") is a German joint stock company. It seeks compensation for contract losses and materials totalling DEM 516,128 (USD 330,428).

Table 10 LINDNER'S CLAIM

Claim element	Claim amount (USD)
Contract losses	181,527
Loss of tangible property	110,825
Loss of profits	38,076
Total	330,428

A. Contract losses

1. Facts and contentions

177. On 24 May 1990, Lindner entered into a contract with the Ministry of Planning (the "employer") in Iraq. The contract was in respect of the interior decoration to Meeting Hall Number 144 in Project 25 in Baghdad. The project had a value of DEM 1,486,864, with reductions for material supplied by the employer. The contract stated that the effective date of commencement would be 10 June 1990 and the contract work was to be completed within a period of seven months.

178. Lindner contended that it commenced the planning, design/static calculations, and production in respect of the contract. It asserted that it incurred losses with respect to contract and design/static calculations.

179. Lindner submitted a claim for losses under contract for an amount of DEM 223,020 (USD 142,778). In its reply to the claim development letter, Lindner indicates that this amount represents "expenses paid for travelling and local staff and offices in Baghdad". These expenses allegedly amount to DEM 163,545. Included in the claim for the DEM 223,020 is an amount of DEM 59,475 which is a claim for loss of profits. The loss of profits claim will be analysed separately.

180. Lindner made further submissions relating to a claim for DEM 120,000 for "design/static calculations". It contended that the work commenced on this portion of the claim on 28 May 1990 and was completed by 13 July 1990.

The claim had been filed as "other" on the "E" Claim Form, but appears to be a contract related claim and will be treated as such for the purpose of the Panel's findings.

2. Analysis and valuation

181. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Lindner had a contract with Iraq. The work relating to the contract was performed after 2 May 1990 and therefore the alleged losses are within the jurisdiction of the Commission.

182. The Panel finds that Lindner did not submit sufficient information to support its claim for contract losses.

183. With respect to the claim for local office expenses in Baghdad, Lindner stated that it could not produce documents as after the arrest of its employee the vouchers and documents of the local office allegedly disappeared. The Panel finds that Lindner did not submit sufficient evidence to demonstrate its loss and, in any event, finds that losses related to branch office expenses are not a direct result of Iraq's invasion and occupation of Kuwait.

184. With respect to the claim for the design/static calculations, Lindner did not submit sufficient evidence to prove its loss. Although Lindner submitted an invoice reflecting an amount for DEM 400,000 relating to the claim for design/static calculations and for materials, the Panel finds that this invoice is of limited probative value as the amount stated therein of DEM 400,000, by Lindner's own admission, is an overstated amount.

3. Recommendation

185. The Panel recommends no compensation for contract losses.

B. Loss of tangible property

186. Lindner seeks compensation for an amount of DEM 173,108 (USD 110,825) relating to the purchase of a custom-made wood veneer required for the fulfilment of the contract. It asserted that as this veneer was custom-made it had been unable to dispose of it. Lindner alleged that it tried various methods of attracting buyers including: advertisements in a German timber industry magazine; sending samples to companies dealing in timber; and attempting to sell it back to the seller. Lindner stated that these

attempts were unsuccessful. It did not provide any documentation or other information in support of these alleged efforts.

187. The Panel finds that Lindner failed to provide sufficient information and/or documentation to prove ownership, value and existence of the material for which it seeks compensation. Lindner also failed to provide proof of its attempts to sell the material.

188. The Panel recommends no compensation for loss of tangible property.

C. Loss of profits

189. Lindner submitted a claim for loss of profits in the amount of DEM 59,475 (USD 38,076). It based the loss of profits amount on 4 per cent of the contract value of DEM 1,486,864.

190. The requirements to substantiate a loss of profits claim have been stated by the Panel at paragraphs 16 and 17. The Panel finds that Lindner failed to submit sufficient evidence to substantiate its loss of profits claim.

191. The Panel recommends no compensation for loss of profits.

D. Recommendation for Lindner

Table 11. RECOMMENDED COMPENSATION FOR LINDNER

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Contract losses	181,527	nil
Loss of tangible property	110,825	nil
Loss of profits	38,076	nil
Total	330,428	nil

192. Based on its findings regarding Lindner's claim, the Panel recommends no compensation.

VIII. CLAIM OF MANNESMANN DEMAG HÜTTENTECHNIK

193. Mannesmann Demag Hüttentechnik ("Mannesmann")is a German registered joint stock company whose main activities are the development, planning, manufacture and sales of machines, plants and equipment. Mannesmann seeks compensation for loss of tangible property in Iraq in the amount of DEM 80,357 (USD 51,445).

Table 12. MANNESMANN'S CLAIM

Claim element	Claim amount USD
Loss of tangible property	51,445
Total	51,445

A. Loss of tangible property

1. Facts and contentions

194. Mannesmann stated that it had a subcontract in Iraq with Klöckner Industrie-Anlagen GmbH for the supervision of the construction of steelworks. The site was set up in July 1989 and Mannesmann asserted that it procured certain assets in order for it to perform its supervisory role. Mannesmann stated that its employees left the site at the end of July 1990 and due to Iraq's invasion and occupation of Kuwait it was unable to move its assets out of Iraq. Mannesmann asserted that "the Taji site was totally destroyed during the Gulf war".

2. Analysis and valuation

195. The requirements to substantiate a loss of tangible property claim have been stated by the Panel at paragraphs 64 and 65. The Panel finds that Mannesmann failed to submit sufficient evidence to substantiate its loss of tangible property claim.

196. Mannesmann did submit as evidence of its loss of tangible property, a schedule which it appears to have prepared itself. Mannesmann did not submit evidence such as a copy of the contract, certificates of title, receipts, purchase invoices, bills of lading, insurance documents, customs records, inventory lists, asset registers, hire purchase or lease agreements, transportation documents and other relevant documents generated prior to 2 August 1990. Mannesmann indicated in its reply to the claim development letter that it is unable to supply the required documentation after "such a long time".

197. The Panel finds that Mannesmann did not provide sufficient evidence of its title to or right to use the assets or the value of the property and that such property was in Iraq prior to 2 August 1990.

3. Recommendation

198. The Panel recommends no compensation for loss of tangible property.

B. Recommendation for Mannesmann

Table 13. RECOMMENDED COMPENSATION FOR MANNESMANN

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Loss of tangible property	51,445	nil
Total	51,445	nil

199. Based on its findings regarding Mannesmann's claim, the Panel recommends no compensation.

IX. CLAIM OF NEW TEL AVIV CENTRAL BUS STATION LIMITED

200. The New Tel Aviv Central Bus Station Limited ("Central Bus Station") is an Israeli registered limited liability public company, which seeks compensation in the amount of USD 8,245,000 relating to income producing property, compensatory payments to tenants, real property, payment or relief to others, financial losses and damage to reputation.

Table 14. CENTRAL BUS STATION'S CLAIM

Claim element	Claim amount USD
Income producing property	2,600,000
Compensatory payments to tenants	1,300,000
Real property	290,000
Payment or relief to others	2,075,000
Financial losses	980,000
Damage to reputation	1,000,000
Total	8,245,000

A. Income producing property

1. Facts and contentions

201. The project for the New Tel Aviv Central Bus Station ("the project") is located in the middle of Tel Aviv, Israel. According to Central Bus Station, the project covers an area of 230,000 square metres, with 62,000 of these being commercial areas. The traffic area of the project included a central terminal, roads, bridges, halls and lanes for passengers to alight from buses. It was intended to deal with some 1,000,000 passengers a week, with 1,500 shops, restaurants, cinemas and entertainment centres.

202. The project was initiated in 1967 by the Kikar Levinsky Corporation ("KLC"). It encountered financial difficulties which resulted in the termination of the building project. KLC went into receivership on 17 September 1979. Central Bus Station purchased the project from the receivers and the purchase was approved by the High Court in July 1983. It thereafter, until early 1988, "was engaged in getting organized to renew the building of the Project".

203. Central Bus Station stated that it had entered into lease and purchase agreements with prospective tenants and purchasers and undertook to open the project in April 1993. It also had offered to sign contracts with those who had purchased shops from KLC and undertook to make these "available" in 1992.

204. Central Bus Station stated that it was involved in stages of construction and building the project in Tel Aviv at the time of Iraq's invasion and occupation of Kuwait. According to Central Bus Station, the invasion resulted in a cessation of its building and construction activities for three to four months. Central Bus Station asserted that a number of its foreign workers departed from Israel. During this period, Central Bus Station indicated that the economy of Israel came to an almost standstill due to the "apprehension and fear of war".

205. Central Bus Station asserted that it suffered a loss of "four months income from leasing of shops and fees from the transportation cooperatives for use of the NCBS in the sum of $2,600,000, calculated at $650,000 per month x 4 months." It is not entirely clear as to when the four month period commences and ceases. The Project was eventually opened to the public on 17 August 1993.

2. Analysis and valuation

206. Central Bus Station stated that Israel was divided into a number of areas of risk from "possible hits from rockets". Central Bus Station asserted that Tel Aviv was designated as an area "A" of risk, "which means the highest level of risk."

207. Central Bus Station submitted a schedule of the tenants and a sample copy of a letter to one of the tenants indicating the amount of compensation to which it would be entitled in the event of a delay. In its reply to a claim development letter, Central Bus Station submitted copies of lease agreements relating to only four entities. These lease agreements are dated 19 November 1991, 14 February 1993, 17 August 1993 and 15 January 1996.

208. Central Bus Station had made reference to the first and last page of each contract of lease and purchase in its reply to a claim development letter, but these documents were not submitted.

209. The Panel finds that Central Bus Station failed to submit sufficient evidence of the lease or purchase agreements. Moreover, the evidence submitted does not establish how Iraq's invasion and occupation of Kuwait

directly resulted in the alleged losses suffered as the agreements submitted are all signed after 2 March 1991

3. Recommendation

210. The Panel recommends no compensation for income producing property losses.

B. Compensatory payments to tenants

211. Central Bus Station seeks compensation of USD 1,300,000 relating to asserted compensatory payments made to tenants. This alleged loss had been submitted as part of the claim for "payment or relief to others". The payments appear to have resulted from the delays in completion of the complex. As a consequence of such delays, Central Bus Station stated that it had to make compensatory payments to tenants. The amounts in question appear to have been calculated "after negotiations and settlements with the shopkeepers."

212. Central Bus Station submitted summons issued against it, "compromise agreements" and statements of claim as evidence of its liability. These documents were intended to be a representative sample of the claims against it. However, they do not assist in determining the number and nature of the claims allegedly made against Central Bus Station.

213. The Panel recommends no compensation for the claim for alleged compensatory payments to the tenants as Central Bus Station did not submit sufficient evidence of its liability nor submitted sufficient evidence of payment.

C. Real property losses

214. Central Bus Station seeks compensation in the amount of USD 290,000 for alleged cost of repairs to the project complex. Central Bus Station asserted that the complex that it was building was used as a shelter by the local residents during the period of the invasion and occupation of Kuwait by Iraq. This, Central Bus Station asserted, resulted in damage to the building, which necessitated it carrying out repairs and maintenance work to the building. Central Bus Station stated that damage was caused to the electricity boxes, air conditioning and plumbing. The alleged costs of these repairs totalled USD 290,000.

215. Although Central Bus Station submitted an affidavit from the project manager on the project at the time, newspaper cuttings and a video, it did not provide evidence of the alleged expenses. Invoices and receipts of the expenses allegedly incurred by Central Bus Station were not provided. The Panel finds that Central Bus Station did not submit sufficient evidence of the alleged costs.

216. The Panel recommends no compensation for real property losses.

D. Payment or relief to others

1. Facts and contentions

217. Central Bus Station submitted two claims related to what appear to be unproductive labour costs. First, it seeks compensation for USD 1,775,000 for alleged payment of its employees' salaries. Central Bus Station stated that it paid its employees' full salaries for half of the month of January 1991, full salaries for February 1991 and March 1991. In April 1991 (80 per cent), May 1991 (50 per cent) and June 1991 (30 per cent) of the employee's salaries was allegedly paid.

218. Central Bus Station also seeks compensation for an amount of USD 300,000 for what it describes as "fixed expenses". These asserted expenses related to "maintenance offices and advisors (including legal, engineering etc) for a total estimated sum of $300,000, according to a calculation of $100,000 per month x 3 months".

2. Analysis and valuation

219. Central Bus Station did provide a copy of its personnel cost report. It also submitted information relating to certain entities called "KAM Ltd" and "C.E.M. Special Manpower Services Inc". This information consists of payment advices which appear to relate to the payment of salaries. It also included untranslated schedules. The Panel finds that the documents submitted do not provide the required information relating to the employees, which should include details of the family name, first name, employee identification number, Israeli civil identification number or residency permit number, and passport number with issuing country. Furthermore, there is an inadequate explanation of the link between itself and the companies, "KAM Ltd" and "C.E.M. Special Manpower Services Inc" that it asserted that it paid nor is there a reconciliation provided between the amounts allegedly paid to these companies and the amount that Central Bus Station is claiming.

220. The Panel also finds that Central Bus Station did not provide invoices and receipts of the alleged expenses relating to "fixed expenses".

221. The Panel finds that Central Bus Station failed to submit sufficient evidence of the alleged expenses relating to the employees' salaries and the "fixed expenses".

3. Recommendation

222. The Panel recommends no compensation for payment or relief to others.

E. Financial losses

1. Facts and contentions

223. Central Bus Station seeks compensation for USD 980,000 for interest allegedly payable in connection with bonds that it stated it registered on the Tel Aviv Stock exchange. The information supplied on this particular element of the claim is scant. In its reply to the claim development letter, Central Bus Station stated that it issued "40,000,000 Registered Bonds" on the Tel Aviv Stock exchange which were repayable over 14 years. It asserted that USD 42,000,000 was raised from the public. The amount of interest payable for the period of the "four months of the Gulf War" was asserted as USD 980,000.

2. Analysis and valuation

224. Central Bus Station submitted a balance sheet from its Financial Report dated 30 September 1993, which does not aid the analysis of the basis of the claim. In its reply to a claim development letter, Central Bus Station also submitted copies of a portion of the prospectus for the issue of the bonds.

225. The Panel finds that the evidence submitted by Central Bus Station does not establish what amounts, if any, were paid to the bond holders relating to the claimed amount of USD 980,000. Central Bus Station provided no explanation of how the USD 42,000,000 had been determined, and failed to indicate the exchange rate or provide an adequate explanation as to how it had derived 7 per cent as the effective rate of interest.

226. The Panel finds that Central Bus Station did not submit sufficient evidence of its alleged loss nor how the alleged losses were the direct result of Iraq's invasion and occupation of Kuwait.

3. Recommendation

227. The Panel recommends no compensation for financial losses.

F. Damage to reputation

228. Central Bus Station seeks compensation for USD 1,000,000 for "damages to the company's good name and other indirect damages". In its reply to the claim development letter, Central Bus Station submitted a breakdown of how it arrived at the claimed amount. It had submitted a claim for USD 500,000 relating to "injury to the corporation's good name", which is based on its alleged failure to complete the project on time. Central Bus Station stated that it received "tens of angry letters from lessees".

229. Second, Central Bus Station also asserted a decline in the sales and leasing of the shops in the complex. Central Bus Station asserted that it had to increase its marketing activities. It estimated its loss as being the amount of USD 300,000. Central Bus Station alleged "injury to the corporations' connections with contractors and suppliers" arising out of alleged delays in payments and various legal actions that were instituted against it. Central Bus Station alleged that its professional standing was damaged. It estimated the damage as being the amount of USD 200,000.

230. The Panel finds that Central Bus Station did not provide sufficient evidence supporting its losses or the basis of its estimation of these losses. In addition, Central Bus Station did not provide adequate evidence which demonstrates that these alleged losses arose as a direct result of Iraq's invasion and occupation of Kuwait.

231. The Panel recommends no compensation for damage to reputation.

G. Recommendation for Central Bus Station

Table 15. RECOMMENDED COMPENSATION FOR CENTRAL BUS STATION

Claim element	Claim amount (USD)	Recommended compensation (USD)
Income producing property	2,600,000	nil
Compensatory payments to tenants	1,300,000	nil
Real property	290,000	nil
Payment or relief to others	2,075,000	nil
Financial losses	980,000	nil
Damage to reputation	1,000,000	nil
Total	8,245,000	nil

232. Based on its findings regarding Central Bus Station's claim, the Panel recommends no compensation.

X. CLAIM OF MORANDC IMPIANTI I.I.M.C. S.p.A.

233. MORANDO IMPIANTI-Impianti per l'Industria dei materiali da Costr. S.p.A, ("Morando") is an Italian registered limited liability company. Morando specialises in the field of structural clay products. It seeks compensation in the amount of USD 4,763,303 for contract losses, tangible property losses and financial losses.

Table 16. MORANDO'S CLAIM

Claim element	Claim amount USD
Contract losses	4,637,442
Loss of tangible property	23,181
Financial losses	102,680
Total	4,763,303

A. Contract losses

1. Facts and contentions

234. Morando stated that in "early 1984" it entered into a contract with the Iraqi Ministry of Industry and Minerals for the provision of maintenance and technical assistance contracts for Salah-El-Deen and Diwaneyiah projects in Iraq. Morando asserted that it supplied spare parts totalling USD 5,471,837 between 1987 to June 1990. Pursuant to the terms of the contract, "at sight, against presentation of shipping documentations", 15 per cent of the purchase price was payable. According to Morando's calculations, 15 per cent of the supplied spare parts amounted to USD 767,557. The balance of 85 per cent was payable "at 24 months of Bill of Lading" representing an amount of USD 4,704,280.

235. Morando stated that in May 1990, it entered into "a new payment scheme for USD 1,263,000 proposed by the Ministry of Industry Financial Committee and covering almost all of the instalments which had then become due." Under the new payment scheme, payments were to be made in instalments commencing in May 1990. Morando received a number of payments for a total amount of USD 404,401 in the period May 1990 to 3 July 1990. No other payments were received after 3 July 1990. Morando asserted that the amount outstanding was in the sum of USD 4,637,442.

2. Analysis and valuation

236. The Panel finds that for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) Morando had a contract with Iraq.

237. Morando was specifically requested in a claim development letter to provide details of the exact dates of delivery relating to the spare parts. It did not state the exact delivery dates but instead referred to copies of invoices, irrevocable letters of credit and telexes of reminders. The documents submitted reflect that the deliveries took place before 2 May 1990. Morando did not submit sufficient evidence to demonstrate that some or any deliveries occurred after 2 May 1990.

238. While those debts were in part covered by a deferred payment agreement, the Panel finds that the deferred payment agreement did not have the effect of novating the debt. The Panel finds that the claims for such losses are, therefore, outside the jurisdiction of this Commission.

3. Recommendation

239. The Panel recommends no compensation for contract losses.

B. Loss of tangible property

240. Morando seeks compensation in the amount of USD 23,181 for alleged tangible property losses. Morando submitted little detail relating to this particular element of its claim, apart from identifying the amount of the asserted loss in its statement of claim and in the "E" claim form. Morando asserted that "the cars and movable goods of our branch office are unserviceable and confiscated".

241. Morando submitted two invoices relating to the purchase of the motor vehicles and a document relating to the alleged confiscation. Morando did not submit evidence such as certificates of title, receipts, bills of lading, insurance documents, customs records, inventory lists, asset registers, hire purchase or lease agreements, transportation documents and other relevant documents generated prior to 2 August 1990.

242. The Panel finds that Morando did not submit sufficient evidence of its title to or right to use the property or that the property was in Iraq prior to 2 August 1990. In addition, the Panel finds that the alleged loss of

tangible property is not compensable as Morando failed to demonstrate how the alleged confiscation of its assets by the Government of Iraq resulted directly from Iraq's invasion and occupation of Kuwait.

243. The Panel recommends no compensation for tangible property losses.

C. Bank account in Iraq

244. Morando seeks compensation in the amount of USD 102,680 relating to a deposit account in the Rafidain Bank.

245. Morando submitted a copy of a bank statement from the Rafidain Bank dated 30 November 1990. The Panel finds that Morando failed to provide sufficient evidence to prove ownership of the bank account or that the funds in the account were appropriated, removed, stolen, or destroyed and therefore how it did suffer any loss. In addition, the Panel finds that Morando failed to show how the losses it may have suffered, if any, were directly caused by Iraq's invasion and occupation of Kuwait.

246. The Panel recommends no compensation for the bank account losses.

D. Recommendation for Morando

Table 17. RECOMMENDED COMPENSATION FOR MORANDO

Claim element	Claim amount (USD)	Recommended compensation (USD)
Contract losses	4,637,442	nil
Loss of tangible property	23,181	nil
Financial losses	102,680	nil
Total	4,763,303	nil

247. Based on its findings regarding Morando's claim, the Panel recommends no compensation.

XI. CLAIM OF V.I.P.P. S.p.A.

248. V.I.P.P. S.p.A.("VIPP") an Italian registered publicly held corporate entity seeks compensation in the amount of LIT 547,000,000 (USD 471,836) for tangible property losses in Iraq.

Table 18. VIPP'S CLAIM

Claim element	Claim amount (USD)
Loss of tangible property	471,836
Total	471,836

249. In its reply to the claim development letter, VIPP included an additional claim relating to payment or relief to others which it asserted totalled USD 9,040. The Panel has only considered those losses contained in the original claim except where such losses have been withdrawn or reduced by VIPP.

A. Loss of tangible property

1. Facts and contentions

250. VIPP had entered into a subcontract agreement on 27 February 1989 to provide foundation piles for the Youssifiyah station in Iraq. The work's execution required VIPP to temporarily import equipment. VIPP asserted that it had completed a portion of its contract work in Iraq and that part of the equipment was due to be loaded for export from Iraq on 7 August 1990. The balance of the equipment was being readied for export upon completion of that respective portion of the contract on 20 August 1990.

251. VIPP asserted that Iraq's invasion and occupation of Kuwait on 2 August 1990 prevented it from re-exporting its equipment from Iraq.

2. Analysis and valuation

252. The requirements to substantiate a loss of tangible property claim have been stated by the Panel at paragraphs 64 and 65.

253. VIPP had provided bills of lading and several untranslated documents which appear to relate to bills of lading. VIPP also submitted a number of documents which are in the name of the other contracting party but does not

explain its right to seek compensation with respect to such tangible property. It also submitted an untranslated copy of what appears to be its contract. VIPP failed to submit evidence such as certificates of title, receipts, purchase invoices, insurance documents, customs records, inventory lists, asset registers, hire purchase or lease agreements, transportation documents and other relevant documents generated prior to 2 August 1990.

254. The Panel finds that VIPP did not submit sufficient evidence of its title to or right to use the property or that the property was in Iraq prior to 2 August 1990.

3. Recommendation

255. The Panel recommends no compensation for loss of tangible property.

B. Recommendation for VIPP

Table 19. RECOMMENDED COMPENSATION FOR VIPP

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Loss of tangible property	471,836	nil
Total	471,836	nil

256. Based on its findings regarding VIPP's claim, the Panel recommends no compensation.

XII. CLAIM OF NAZIR AND COMPANY (PRIVATE) LIMITED

257. Nazir and Company (Private) Limited ("Nazir"), a Pakistani registered limited liability corporate entity seeks compensation in the amount of IQD 671,581 (USD 2,243,080) for the loss of tangible property and cash in its bank account.

Table 20. NAZIR'S CLAIM

Claim element	Claim amount USD
Loss of tangible property	1,881,475
Financial losses	361,605
Total	2,243,080

A. Loss of tangible property

1. Facts and contentions

258. Nazir seeks compensation for loss of tangible property in the amount of IQD 563,316 (USD 1,881,475). The asserted loss relates to heavy construction equipment, vehicles, tools, equipment and fixtures and fittings, which Nazir alleged that it left behind on site when it evacuated Iraq.

259. Nazir contended that at the time of Iraq's invasion and occupation of Kuwait it had been working on three different projects in Iraq as a subcontractor. The three projects were for a road project, a telephone network cable project and a transmission line project.

260. Nazir asserted that its assets in Iraq were left under guard as its employees evacuated Iraq. Nazir did not submit any other information or documentation establishing the evacuation of its employees. It concluded that its machinery was either taken away by the Iraqi army or stolen.

261. Nazir provided, as evidence of its loss, a schedule of assets drawn from its accounts. In its reply to a claim development letter, it also included its statement and final account for the financial year ended 31 December 1989 as well as copies of the three subcontract agreements.

2. Analysis and valuation

262. The requirements to substantiate a loss of tangible property claim have been stated by the Panel at paragraphs 64 and 65. The Panel finds that Nazir failed to submit sufficient evidence to substantiate its loss of tangible property claim.

263. The Panel finds that Nazir did not provide sufficient evidence of its title to or right to use the asset, the value and the presence of the tangible property located in Iraq. Further, the Panel finds that Nazir did not provide evidence of the evacuation of its workers from Iraq.

3. Recommendation

264. The Panel recommends no compensation for loss of tangible property.

B. Bank account in Iraq

265. Nazir seeks compensation of IQD 108,265 (USD 361,605) for the loss of an alleged cash deposit with the Rafidain Bank.

266. Nazir submitted a copy of a statement from the Rafidain Bank which is partly in Arabic and illegible in parts. The Panel finds that Nazir failed to provide sufficient documentary evidence to prove ownership of the bank account or that the funds in the account have been appropriated, removed, stolen, or destroyed and therefore how it has suffered any loss. In addition, the Panel finds that Nazir failed to show how any losses it may have suffered were directly caused by Iraq's invasion and occupation of Kuwait.

267. The Panel recommends no compensation for the bank account losses.

C. Recommendation for Nazir

Table 21. RECOMMENDED COMPENSATION FOR NAZIR

Claim element	Claim amount (USD)	Recommended compensation (USD)
Loss of tangible property	1,881,475	nil
Financial losses	361,605	nil
Total	2,243,080	nil

268. Based on its findings regarding Nazir's claim, the Panel recommends no compensation.

XIII. CLAIM OF NAFTOBUDOWA HOLDING COMPANY

269. Construction Engineering and Maintenance, NAFTOBUDOWA Holding Company ("Naftobudowa") is a Polish joint stock company. Naftobudowa seeks compensation in the amount of USD 4,643,401 for contract losses relating to unpaid invoices, loss of earnings, evacuation costs, interest and claim preparation costs.

Table 22. NAFTOBUDOWA'S CLAIM

Claim element	Claim amount USD
Contract losses	1,702,610
Loss of earnings	2,657,942
Evacuation costs	104,257
Interest	(--)
Claim preparation costs	178,592
Total	4,643,401

A. Contract losses

1. Facts and contentions

270. Naftobudowa seeks compensation for USD 1,702,610 for contract losses arising out of three contracts. For each contract, Naftobudowa asserted that Iraq's invasion and occupation of Kuwait resulted in the suspension of the contract works. Naftobudowa indicated that its specialists were unable to leave Iraq due to the refusal by the Iraqi authorities to grant them exit visas until December 1990. According to Naftobudowa, the Iraqi authorities continued to make payment of the Iraqi dinar portion of the invoiced work, but began to fall into arrears with respect to the remittable United States dollar amounts.

(a) Daura-Basra contract

271. Naftobudowa entered into a contract on 25 February 1989 (the "Daura-Basra contract") with the Ministry of Oil, Republic of Iraq, State Establishment of Pipeline, Daura. This contract involved the supply of 60 Polish specialists for the operation and maintenance in the oil industry. The total value of the Daura-Basra contract was USD 10,189,392.

272. The alleged outstanding payments relating to invoices made out in May 1990 to December 1990 amounted to USD 1,295,047.

(b) Baiji contract

273. Naftobudowa entered into an agreement on 7 March 1989 with the Ministry of Oil, Republic of Iraq, North Refinery, Baiji, ("the Baiji contract") for the provision of 65 Polish specialists. In terms of the contract, the Polish experts were to undertake operational and maintenance work on the Baiji refinery. The contract was extended to 3 March 1991 in terms of an addendum to the original contract dated 16 June 1990, although the number of specialists was reduced to 49. The value of the extended contract was USD 1,509,950.

274. The claimed losses for June 1990 to December 1990 related to allegedly unpaid invoices for work done and leave pay for the amount of USD 256,847.

(c) New Tyre Project contract (Najaf)

275. Naftobudowa entered into a contract on 10 May 1989 with the New Tyre Project Committee, Ministry of Industry (the "New Tyre Project contract"). The 60 specialists comprised engineers and technicians who were to be employed at the Najaf Tyre Factory site. The contract value was USD 2,439,024.

276. Naftobudowa asserted a loss for alleged unpaid invoices and leave due for the period June 1990 to September 1990 as being the amount of USD 150,716.

2. Analysis and valuation

277. The Panel finds for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) that Naftobudowa had contracts with Iraq with respect to the Daura-Basra, Baiji, and the New Tyre Project contracts.

278. With respect to the contracts for Daura-Basra, Baiji, and the New Tyre Project, the Panel finds that Naftobudowa was still providing a service at the time of Iraq's invasion and occupation of Kuwait on 2 August 1990. Accordingly, those claims relating to performances from 2 May 1990 to 31 December 1990 are within the jurisdiction of the Commission.

279. With respect to the Daura-Basra contract, Baiji contract, and the New Tyre Project contract, Naftobudowa did submit copies of the contracts, copies of invoices, copies of time sheets and copies of correspondence with the Ministry of Oil and Ministry of Industry. Naftobudowa stated in its reply to a claim development letter that the remuneration of its specialists was made on the basis of hourly rates charged for its specialist services. Invoices were consequently issued on the basis of time sheets.

280. The Panel finds that Naftobudowa did submit sufficient evidence to establish its entitlement to USD 1,278,097 arising out of the Daura-Basra contract, Baiji Contract, and the New Tyre Project contracts.

3. Recommendation

281. The Panel recommends compensation in the amount of USD 1,278,097 for contract losses.

B. Loss of earnings

282. Naftobudowa seeks compensation in the amount of USD 2,657,942 for alleged loss of earnings. The alleged loss of earnings was calculated on the basis of "the reduction of the period of implementation of that part of the contract specified....which deprived Naftobudowa of the anticipated revenues." The asserted loss for each of the contracts is as follows:

i. Daura-Basra contract - USD 1,873,950;

ii. Baiji contract - USD 377,488; and

iii. New Tyre Project contract - USD 406,504

283. Naftobudowa did not provide any evidence of direct costs associated with each contract, or evidence of a profit margin it may have been earning on each contract. The Panel finds that Naftobudowa did not submit sufficient information to establish its loss of earnings claim.

284. The Panel recommends no compensation for loss of earnings.

C. Evacuation losses

285. Naftobudowa seeks compensation of USD 104,257 for the costs of evacuating its employees from Iraq. Naftobudowa stated that in 1989-1990, there were more than 300 of its employees in Iraq. Under the contracts, the

Iraqi authorities were obliged to pay for the transportation of the workers to Poland.

286. The Panel finds that Naftobudowa did not provide sufficient detail relating to the employees that it allegedly evacuated. The following information about each employee should have been provided: family name, first name, employee identification number, Iraqi residency permit number, and passport number with issuing country. Copies of Naftobudowa's payroll records for the employees for the period relevant to the Claim (both before and after 2 August 1990) were not provided.

287. The Panel recommends no compensation for evacuation costs.

D. Interest

288. With reference to the issue of interest, the Panel refers to paragraphs 19 and 20 of this report.

E. Claim preparation costs

289. Naftobudowa seeks compensation in the amount of USD 178,592 for asserted claim preparation costs. In a letter dated 6 May 1998, the Panel was notified by the Executive Secretary of the Commission that the Governing Council intends to resolve the issue of claim preparation costs at a future date. Accordingly, the Panel takes no action with respect to the claim by Naftobudowa for such costs.

F. Recommendation for Naftobudowa

Table 23. RECOMMENDED COMPENSATION FOR NAFTOBUDOWA

Claim element	Claim amount (USD)	Recommended compensation (USD)
Contract losses	1,702,610	1,278,097
Loss of earnings	2,657,942	nil
Evacuation costs	104,257	nil
Interest	(--)	(--)
Claim preparation costs	178,592	(--)
Total	4,643,401	1,278,097

290. Based on its findings regarding Naftobudowa's claim, the Panel recommends compensation of USD 1,278,097.

XIV. CLAIM OF SÖRMAŞ SÖĞÜT REFRAKTER MALZEMELERI AŞ

291. Sörmaş Söğüt Refrakter Malzemeleri AŞ ("Sörmaş") is a Turkish registered legal entity whose business activity includes the production of refractory supplies. Sörmaş seeks compensation in the amount of USD 85,839 for contract losses.

Table 24. SÖRMAŞ'S CLAIM

Claim element	Claim amount
	USD
Contract losses	85,839
Total	85,839

A. Contract losses

292. Sörmaş entered into an agreement to supply the Iraqi Cement State Enterprise Baghdad with refractories for their cement rotary kilns. The contract value was USD 858,392. Sörmaş did not submit a copy of the contract. The dates on a letter of credit submitted by Sörmaş suggest that the contract was entered into in December 1988.

293. The letter of credit made reference to what appears to be a delivery date and indicates "not later than 10.7.1989." Sörmaş stated that the goods were delivered to the purchaser and it received 90 per cent of the purchase price in terms of the letter of credit. Sörmaş acknowledged that the outstanding amount should have been paid in 1989.

294. The Panel finds for the purposes of the "arising prior to" clause in paragraph 16 of Security Council resolution 687 (1991) that Sörmaş had a contract with Iraq.

295. The Panel finds that the contract losses stated by Sörmaş relate entirely to services that were performed prior to 2 May 1990. Accordingly, the claim for contract losses is outside the jurisdiction of the Commission.

296. The Panel recommends no compensation for contract losses.

B. Recommendation for Sörmas

Table 25. RECOMMENDED COMPENSATION FOR SÖRMAŞ

Claim element	Claim amount (USD)	Recommended compensation (USD)
Contract losses	85,839	nil
Total	85,839	nil

297. Based on its findings regarding Sörmaş's claim, the Panel recommends no compensation.

XV. CLAIM OF CLEVELAND BRIDGE AND ENGINEERING MIDDLE EAST(PVT)LTD

298. Cleveland Bridge and Engineering Middle East (Private) Limited ("Cleveland") is a United Arab Emirates registered limited liability company involved in structural steel fabrication and construction. Cleveland seeks compensation of AED 21,987,416 (USD 5,989,490) for loss of profits and losses relating to under recovery of overheads and the cost of capital expenditures.

Table 26. CLEVELAND'S CLAIM

Claim element	Claim amount (USD)
Loss of profits	5,989,490
Total	5,989,490

A. Loss of profits

299. Cleveland signed a subcontract (the "subcontract") on 25 July 1990 with Turkish Joint Venture (BMB, Soyteck, Soyut, Yapi Merkezi & Guris)("TJV") for the design, preparation of drawings, supply, fabrication, painting and delivery of some 18,025 tons of structural steelwork with a value of AED 75,542,775 for the Sabiya Power Project in Kuwait ("the project").

300. Following Iraq's invasion and occupation of Kuwait on 2 August 1990, all work on the project halted. Cleveland asserted that, as a result of Iraq's invasion and occupation of Kuwait, it was prevented from continuing the subcontract and suffered loss of profits and losses relating to under recovery of overheads and the cost of capital expenditures, accordingly.

301. The Panel notes that according to the terms of the subcontract, the approval of the owner of the project, the Ministry of Electricity and Water of Kuwait and the approval of the board of TJV were required before the subcontract became binding. Cleveland failed to submit evidence of such approvals having being granted.

302. The Panel finds that Cleveland failed to demonstrate that it had an existing contractual relationship as of 2 August 1990.

303. The Panel recommends no compensation for loss of profits, capital expenditures and alleged under recovery of overheads.

B. Recommendation for Cleveland

Table 27. RECOMMENDED COMPENSATION FOR CLEVELAND

Claim element	Claim amount (USD)	Recommended Compensation (USD)
Loss of profits	5,989,490	nil
Total	5,989,490	nil

304. Based on its findings regarding Cleveland Bridge's claim, the Panel recommends no compensation.

XVI. CLAIM OF DAL-STERLING GROUP PLC

305. Dal-Sterling Group PLC ("Dal-Sterling") is a United Kingdom registered public limited liability company. Dal-Sterling seeks compensation for loss of earnings, payment or relief to others, and financial losses in the amount of GBP 140,751 (USD 267,587).

Table 28. DAL-STERLING'S CLAIM

Claim element	Claim amount USD
Loss of earnings	162,192
Payment or relief to others	26,591
Financial losses	78,804
Total	267,587

A. Loss of earnings

1. Facts and contentions

306. Dal-Sterling seeks compensation in the amount of GBP 85,313 (USD 162,192) relating to alleged loss of earnings in the form of fees. Dal-Sterling had entered into a contract in Iraq with Biwater International Construction Limited ("BIC") on 15 September 1989 to advise on BIC's contract for the provision of services for the construction of the Akashat Railway Water Supply contract ("Akashat Project") in Iraq. Under the contract, Dal-Sterling was to prepare and negotiate BIC's contractual claims on the Akashat Project. Dal-Sterling's Operations director (the "employee") made several visits to Iraq to negotiate with BIC's employer, the Ministry of Transport and Communications, Iraq (the "Ministry"). The last visit was made on 31 July 1990 when the employee visited Baghdad to continue negotiations with the Ministry. Dal-Sterling's employee was due to return to his office in Paris by 8 August 1990. The employee was detained in Iraq from 9 August 1990 to 10 December 1990. On his return home, the employee was allegedly suffering from "nervous exhaustion" and took leave of absence from work. He allegedly resumed his duties only at the beginning of February 1991.

307. Dal-Sterling asserted that its employee also had special responsibility to Dal-Sterling's French speaking clients as he was the only fluent French speaker in Dal-Sterling's employ at senior management level. Due to the detention of its employee, Dal-Sterling stated that it was unable

to adequately service the French speaking segment of its clients and it consequently lost the business of many of these clients. According to Dal-Sterling, the effect of the loss of the French speaking market segment of Dal-Sterling's client base was noticeable in 1991. Dal-Sterling stated that the fee earning work was reduced compared to 1989 and the first seven months of 1990.

308. Dal-Sterling calculated that fees were lost from 8 August 1990 to the end of December 1991, representing a total of 16.8 months. Dal-Sterling calculated its loss of fees on the basis of fees generated in the twelve months preceding the detention and multiplying that amount by 16.8 months. It offset against this amount the salary claimed relating to the employee.

2. Analysis and valuation

309. Dal-Sterling submitted copies of time sheets and analysis in support of its claim for loss of fee earnings. Dal-Sterling stated it was unable to provide copies of the specific contracts as these are no longer available in its archives.

310. Dal-Sterling submitted budgets for 1989 and 1991. In a claim development letter, Dal-Sterling was requested to provide copies of the original calculations of fee earnings with respect to each project for which loss of fee earnings is claimed, and all revisions to these calculations made during the projects. Dal-Sterling indicated that individual project fees were not available.

311. Dal-Sterling stated in its reply to the claim development letter that it was unable to "list and provide documentary evidence of potential individual and specific jobs or clients 'lost' during Mr Smith's absence from the Paris office. It is the overall loss of fee earnings during the period August 1990 and December 1991 that the Claimant is seeking."

312. The Panel finds that Dal-Sterling did not submit sufficient information to establish its loss of earnings claim.

3. Recommendation

313. The Panel recommends no compensation for the loss of earnings claim.

B. Payment or relief to others

1. Facts and contentions

314. Dal-Sterling, seeks compensation relating to salary payments of GBP 12,334 (USD 23,448). It asserted that its employee was detained in Iraq from 9 August 1990 to 10 December 1990 for a period of 124 days. The employee was allegedly detained on the project site for the Akashat Project during the duration of his detention. Dal-Sterling stated that although he was at the site, the employee was unable to be productive as he had completed his particular assignment and was in fact due to depart Iraq by 8 August 1990.

315. Upon his return home, the employee allegedly did not return to his duties until the end of February 1991 due to "nervous exhaustion", a further period of 52 days. Dal-Sterling stated that it continued to pay the employee his salary and employment related expenses, such as pension and medical aid, during this period amounting to GBP 23,511. Dal-Sterling did receive an *ex gratia* payment from BIC totalling GBP 11,177 as a "retainer" during the period of detention. It asserted that its client was under no obligation to make this payment. Dal-Sterling, therefore, asserts a loss relating to salary payments of GBP 12,334.

316. Dal-Sterling had also submitted a claim for alleged payments made to the employee's wife in the amount of GBP 1,653 (USD 3,143). These payments related to reimbursements for costs allegedly incurred by her as she sought to secure the release of her husband.

2. Analysis and valuation

317. Dal-Sterling provided the number of a passport issued in 1978 and part of its payroll records for the employee. As proof of detention, Dal-Sterling submitted copies of correspondence between itself and the British Foreign and Commonwealth Office and an affidavit confirming the detention in Iraq. However, Dal-Sterling did not submit medical evidence relating to the employee's inability to return to work until 1 February 1991.

318. The Panel finds that Dal Sterling's salary payments during the period of the detention from 9 August 1990 to 10 December 1990 are compensable in principle. However, Dal-Sterling did not submit copies of its payroll records relating to that period. With respect to the balance of the claim for payment of salary, the Panel finds that Dal-Sterling did not submit sufficient evidence of the alleged inability of the employee to work after

his release from detention. With respect to the claim relating to the alleged expenses of the spouse, Dal-Sterling submitted a number of receipts but did not submit evidence of its reimbursement of these expenses.

3. Recommendation

319. The Panel recommends no compensation for payment or relief to others.

C. Financial losses

320. Dal-Sterling seeks compensation in the amount of GBP 41,451 (USD 78,804) for losses relating to financing charges it allegedly incurred with its commercial bank for the provision of an overdraft facility. It contended that with effect from 9 August 1990 up "to the present" (the statement of claim is dated 14 February 1994 and Dal-Sterling calculated its losses up to that date) it did incur losses and expenses relating to its claim. This loss element is calculated on the amounts that Dal-Sterling asserted as losses before this Commission. As a result, it alleged that it had to incur costs amounting to GBP 41,451 for the costs of servicing its overdraft.

321. Dal-Sterling submitted a schedule of its calculations and its Annual Report for the year ended 31 December 1991 as evidence of its alleged loss. However, it did not submit sufficient evidence of the costs incurred on the overdraft related to the specific loss elements and proof of payment relating to the loss elements. The Panel finds that Dal-Sterling did not submit sufficient evidence to support its claim for alleged financial losses. Accordingly, the Panel recommends no compensation for alleged financial losses.

D. Recommendation for Dal-Sterling

Table 29. RECOMMENDED COMPENSATION FOR DAL-STERLING

Claim element	Claim amount (USD)	Recommended compensation (USD)
Loss of earnings	162,192	nil
Payment or relief to others	26,591	nil
Financial losses	78,804	nil
Total	267,587	nil

322. Based on its findings regarding Dal-Sterling's claim, the Panel recommends no compensation.

XVII. RECOMMENDATIONS

323. Based on the foregoing, the Panel recommends the following amounts of compensation for direct losses suffered by the claimants as a result of Iraq's invasion and occupation of Kuwait:

a. China Metallurgical Construction Corporation: USD 334,912

b. Erection and Industrial Services Corporation: NIL

c. Eman Establishment For Contracting Nan Tawfik Boules: NIL

d. El-Tadamone El-Araby Company For Contracting: NIL

e. Lindner Aktiengesellschaft: NIL

f. Mannesmann Demag Hüttentechnik: NIL

g. The New Tel Aviv Central Bus Station Limited: NIL

h. MORANDO IMPIANTI-Impianti per l'Industria dei materiali da Costr. S.p.A,: NIL

i. VIPP S.p.A.: NIL

j. Nazir and Company (Private) Limited: NIL

k. Construction Engineering and Maintenance, NAFTOBUDOWA Holding Company: USD 1,278,097

l. Sörmaş Söğüt Refrakter Malzemeleri AŞ: NIL

m. Cleveland Bridge and Engineering Middle East (Private) Limited: NIL

n. Dal-Sterling Group PLC: NIL

Geneva, 13 December 1999

(Signed) Mr. Werner Melis
Chairman

(Signed) Mr. David Mace
Commissioner

(Signed) Mr. Sompong Sucharitkul
Commissioner

Annex XI

Decision concerning the twelfth instalment of E3 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the twelfth instalment of "E3" claims, covering 14 claims, 1/

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report. The aggregate amounts per country, based on the recommendations contained in paragraph 323 of the report, are as follows:

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
China	1	-	24,909,175	334,912
Egypt	-	3	24,081,942	nil
Germany	-	2	381,873	nil

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* Previously issued as document S/AC.26/Dec.90 (2000).

[1] The text of the report appears in document S/AC.26/2000/5 (annex X above).

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Israel	-	1	8,245,000	nil
Italy	-	2	5,235,139	nil
Pakistan	-	1	2,243,080	nil
Poland	1	-	4,643,401	1,278,097
Turkey	-	1	85,839	nil
United Arab Emirates	-	1	5,989,490	nil
United Kingdom	-	1	267,587	nil
Total	2	12	76,082,526	1,613,009

3. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)),

4. Recalls that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

5. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to each respective Government.

Annex XII

Report and recommendations made by the Panel of Commissioners concerning the third instalment of E4 claims*

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* Previously issued as document S/AC.26/2000/6.

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	498
I. OVERVIEW OF THE THIRD INSTALMENT CLAIMS	4 - 6	498
II. THE PROCEEDINGS	7 - 19	498
III. LEGAL FRAMEWORK	20	501
IV. VERIFICATION AND VALUATION OF CLAIMS	21	501
V. CONSIDERATION OF COMMON LEGAL AND FACTUAL ISSUES	22 - 80	501
A. Approach	22	501
B. Losses incurred by Kuwaiti banks on the sale of assets	23 - 26	502
C. Losses incurred in connection with cancelled Kuwaiti dinar banknotes	27 - 31	503
D Losses arising from movements in currency exchange rates	32 - 53	504
E. Losses arising from loans to Rafidain Bank	54 - 70	509
F. Losses arising from monies held on deposit in Iraq	71 - 74	512
G. Losses arising from overseas operations	75 - 77	513
H. Losses arising from visa card transactions	78 - 80	513
VI. THE CLAIMS	81 - 162	514
A. Contract	82 - 88	514
1. Compensability	85	515
2. Verification and valuation method	86	515
3. Evidence submitted	87 - 88	515
B. Real property	89 - 96	515
1. Compensability	90 - 91	516
2. Verification and valuation method	92	516
3. Evidence submitted	93 - 96	516
C. Tangible property	97 - 113	517
1. Compensability	98 - 99	517
2. Verification and valuation method	100	517
3. Evidence submitted	101 - 113	518
(a) Tangible property	101 - 102	518
(b) Stock	103 - 104	518
(c) Cash	105 - 109	518
(d) Vehicles	110 - 113	519
D. Income-producing property	114 - 116	520
E. Payment or relief to others	117 - 122	520
1. Compensability	118 - 119	521
2. Verification and valuation method	120	521

3. Evidence submitted . . . . 121 - 122 521

F. Loss of profits . . . . 123 - 135 522

1. Compensability . . . . 124 - 132 522

2. Verification and valuation method . . . 133 524

3. Evidence submitted . . . . 134 - 135 524

G. Receivables . . . . 136 - 145 524

1. Compensability . . . . 137 - 141 524

2. Verification and valuation method . . . 142 526

3. Evidence submitted . . . . 143 - 145 526

H. Restart costs . . . . 146 - 148 526

I. Other losses . . . . 149 - 162 527

VII. OTHER ISSUES . . . . 163 - 164 530

A. Applicable dates for currency exchange rate and interest 163 530

B. Claim preparation costs 164 530

VIII. CORRECTION OF FIRST AND SECOND INSTALMENT CLAIMS 165 530

IX. RECOMMENDED AWARDS 166 531

Annexes

Annex I: Recommended awards for the third instalment of "E4" claims - Reported by UNSEQ and UNCC claim numbers and claimant name 532

Annex II: Recommended awards for the third instalment of "E4" claims - Reported by claimant name and category of loss 534

Annex III: Correction of recommended awards for the first and second instalment of "E4" claims 563

Introduction

1. At its twenty-fourth session, held on 23-24 June 1997, the Governing Council of the United Nations Compensation Commission (the "Commission") appointed Messrs. Robert R. Briner (Chairman), Alan J. Cleary and Lim Tian Huat as the Panel of Commissioners (the "Panel") charged with reviewing "E4" claims. The "E4" population consists of claims submitted by Kuwaiti entities, other than oil sector and environmental claims, eligible to file claims under the Commission's "Claim Forms for Corporations and Other Entities" ("Form E").

2. The third instalment of 20 "E4" claims was submitted to the Panel on 8 February 1999 in accordance with article 32 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules").

3. Pursuant to article 38 of the Rules, this report contains the Panel's recommendations to the Governing Council concerning the third instalment claims.

I. OVERVIEW OF THE THIRD INSTALMENT CLAIMS

4. The third instalment claims were selected from among the population of approximately 2,750 "E4" claims on the basis of criteria that include, inter alia, the size, volume and complexity of the claim, the legal, factual and valuation issues raised by the claim, the claimant's type of business activity and the date of filing of the claim with the Commission.

5. The third instalment claims allege losses aggregating Kuwaiti dinars ("KD") 537,834,961 (approximately US$1,861,020,626). The claims range between KD 3,023,112 and KD 175,202,000 (i.e., between approximately US$10,460,595 and US$606,235,294) in value. In view of the complexity of the issues raised, the volume of the documentation underlying the claims and the amount of compensation sought by the claimants, all of the claims in the third instalment are classified as "unusually large or complex" within the meaning of article 38(d) of the Rules.

6. All of the claimants in the third instalment operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. Many, but not all such claimants, were operating in the banking and financial services industry. Claimants in this instalment have sought compensation under all loss categories identified on Form E, except loss of business transaction or course of dealing.

II. THE PROCEEDINGS

7. Before the third instalment claims were submitted to the Panel, the secretariat undertook a complete review of the claims in accordance with the Rules. The secretariat first carried out a preliminary assessment of the claims, pursuant to article 14 of the Rules, to verify whether the claims met the formal requirements of paragraphs (1) and (2) of article 14.

For example, the claims were reviewed to ascertain whether they included proof of incorporation or organization under the laws of Kuwait on the date the claim arose, and contained an affirmation by the authorized official for each claimant that the information contained in the claim is correct. The results of this formal review were entered into a centralized database maintained by the secretariat (the "Claims Database").

8. Of the 20 claims included in the third instalment, two presented formal deficiencies. Accordingly, the secretariat issued notifications to both claimants, pursuant to article 15 of the Rules. The secretariat received two responses to these article 15 notifications, which responses remedied the formal deficiencies in both claims.

9. A substantive review of the third instalment claims was then undertaken to identify significant legal, factual and valuation issues. The results of the review, including the significant issues identified, were recorded in the Claims Database.

10. The Executive Secretary of the Commission submitted reports 24 and 25 dated 8 July 1998 and 13 October 1998 respectively, to the Governing Council in accordance with article 16 of the Rules. These reports covered, inter alia, the third instalment of "E4" claims and presented the significant legal and factual issues identified in those claims. A number of Governments, including the Government of Iraq submitted additional information and views in response to the Executive Secretary's article 16 reports.

11. In addition to having access to narrative claim summaries for each claim in the third instalment, the Panel also requested specific information and documents from the claimants pursuant to article 34 of the Rules.

12. Accordingly, at the conclusion of the (i) preliminary assessment; (ii) substantive review; and (iii) article 16 reporting, the following documents had been made available to the Panel for consideration:

(a) the claim documents submitted by the claimants;

(b) the preliminary assessment reports under article 14 of the Rules;

(c) narrative claim summaries and reports;

(d) further information and documentation provided by the claimants pursuant to specific requests made pursuant to article 34 of the Rules;

(d) information and views of Governments, including the Government of Iraq, received in response to the article 16 reports; and

(e) other information, such as legal briefing notes, deemed, under article 32 of the Rules, to be useful to the Panel for its work.

13. As described in paragraph 17 of the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E4' claims" (S/AC.26/1999/4) (the "First 'E4' Report"), the Panel retained the services of an accounting firm and a loss adjusting firm as expert consultants. The Panel directed the expert consultants to review each claim in the third instalment in accordance with the verification and valuation methodology developed by the Panel as outlined in the First "E4" Report and to submit to the Panel a detailed report for each claim summarizing the expert consultants' findings. The methodology used by the Panel in the First "E4" Report is not restated in this report. Instead, this report makes reference to the First "E4" Report. Where the Panel encountered new issues not addressed in the First "E4" Report, the Panel developed additional methodologies for verifying and valuing those losses as described herein.

14. During the period from 26 April 1999 to 5 May 1999, at the direction of the Panel, members of the secretariat and expert accounting and loss adjusting consultants travelled to Kuwait to obtain information for the Panel's assessment of the claims and to carry out on-site inspections. Commissioner Alan Cleary was the member of the Panel who participated in the visit. The delegation met with governmental agencies, including the Public Authority for Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC") and the Central Bank of Kuwait. In addition, the members of the secretariat and the expert consultants met with all third instalment claimants.

15. By its first procedural order, dated 9 February 1999, the Panel gave notice of its intention to complete its review of the third instalment claims and submit its report and recommendations to the Governing Council within twelve months.

16. The Panel's first procedural order was transmitted to the Government of Iraq and the Government of Kuwait on 11 February 1999.

17. By its second procedural order dated 10 February 1999, the Panel instructed the secretariat to transmit the statement of claim and all other supporting documents filed by all third instalment claimants with claims greater than KD 30,000,000 (approximately US$100,000,000) to Iraq. The Panel invited the Government of Iraq to submit its response to these claims within 180 days of the date of the procedural order. Iraq submitted a written response to all seven such claims, which, in some cases raised specific issues. Each of the issues raised by Iraq has been considered by the Panel and some are specifically reflected in the Panel's findings set out below.

18. An additional level of verification was performed to determine if related claimants filed duplicate claims. On 8 May 1998, PAAC was asked to

identify the corporate affiliates of claimants that had also filed a claim with the Commission. Based on the information received from PAAC and the information available in the Claims Database, a review was conducted to ensure that related claimants did not file a claim for the same loss. This verification was performed on the entire E4 population, not just the third instalment claims.

19. Based on its review of the documents submitted, including responses to the procedural orders received from the Government of Iraq, the Panel concluded that the issues presented by the third instalment claims had been adequately developed and that oral proceedings to explore such issues further were not required.

III. LEGAL FRAMEWORK

20. The legal framework for the evaluation of the claims in the third instalment is identical to that used for the claims in the first instalment, as described in paragraphs 25-31 of the First "E4" Report.

IV. VERIFICATION AND VALUATION OF CLAIMS

21. The verification and valuation methodology applied by the Panel to the third instalment claims is the same as that used in the first instalment. (See the First "E4" Report, paras. 32-62.) As summarized in the First "E4" Report, the Panel's approach to the verification and valuation of claims balances the claimant's inability to always provide best evidence against the "risk of overstatement" introduced by shortcomings in evidence. The term "risk of overstatement", as defined in paragraph 34 of the First "E4" Report, is used to refer to cases in which claims contain evidentiary shortcomings that prevent their precise quantification and therefore present a risk that they might be overstated. As with the First "E4" Report, the Panel's treatment of certain claimants is highlighted in the body of this report.

V. CONSIDERATION OF COMMON LEGAL AND FACTUAL ISSUES

A. Approach

22. Due to the nature of the industry in which many of the third instalment claimants were involved, namely the provision of banking and financial services, the Panel encountered a number of legal and factual issues that had not arisen in its review of previous instalments of "E4" claims. Many of these issues are common to several claims. The Panel therefore finds it appropriate to resolve these issues initially, as set out below.

B. Losses incurred by Kuwaiti banks on the sale of assets

1. Background

23. All third instalment claimants operating in the Kuwaiti banking sector ceased operations in Kuwait immediately following Iraq's invasion. Most of these claimants explain that their banking operations were funded by the Kuwaiti domestic deposit base, and that access to these funds was no longer possible following Iraq's invasion and occupation of Kuwait. This resulted in a lack of sufficient liquidity on the part of Kuwaiti banks to settle obligations as they fell due, such as interest payments, inter-bank obligations and obligations arising out of documentary credit transactions. These claimants state that, as a result, they were compelled to sell financial assets that they held offshore, in order to settle outstanding obligations as they fell due and to maintain adequate levels of liquidity. The types of assets sold include syndicated loans, securities, bonds and warrants. The claimants allege that they suffered losses as a result of these transactions, and that such losses are a direct result of Iraq's invasion and occupation of Kuwait.

24. The transactions in question were carried out through the claimants' overseas branch offices. As a result of the United Nations trade embargo, permission was sought and obtained where necessary from the appropriate monetary authorities where the transactions were carried out, such as the Bank of England and the United States Federal Reserve Bank. Some claimants already had an overseas presence at the time of Iraq's invasion of Kuwait, whereas other claimants proceeded to set up overseas offices in locations such as London and New York during the occupation period. A full discussion of these overseas operations and claims for compensation arising therefrom are discussed in paragraphs 75-77 *infra*.

2. Compensability

25. The claims for losses on the sale of assets have certain common features, namely:

(a) the assets were sold in order to raise funds to meet liabilities due to other banks and to depositors in Kuwait;

(b) the losses have been quantified as the difference between either the value of the asset as recorded in the claimants' financial records ("the book value") and the sale value achieved, or the difference between the nominal (or face) value of the asset and the sale value achieved;

(c) the losses arose due to the market conditions prevailing in the period over which the sales took place, and hence the sale value achieved was usually below the book value or nominal value of the asset;

(d) claimants generally claim that they would have obtained full value for the assets concerned had they held them to maturity or sold them in better market conditions; and

(e) all claimants have confirmed that the sales were achieved at the market values prevailing at the date of sale.

26. The Panel finds that, while the need to sell assets by the claimants arose as a result of Iraq's invasion and occupation of Kuwait, none of the claimants could provide evidence to demonstrate that the amounts claimed, i.e., the difference between the book value or nominal value and the sale value of the asset, were losses directly resulting from Iraq's invasion and occupation of Kuwait. The Panel finds that any losses arising from such sales were due both to a failure on the part of the claimants to value their assets properly (by adjusting the book value of the assets to reflect their fair value in the period leading up to the date of the invasion), and to the market conditions prevailing in the period over which the sales took place. In the circumstances, the Panel finds that such claims are not compensable.

C. Losses incurred in connection with cancelled Kuwaiti dinar banknotes

27. A number of claimants, mostly Kuwaiti banks, seek compensation for losses suffered as a result of their receipt of cancelled Kuwaiti dinar banknotes. The Central Bank of Kuwait ("CBK") has refused to exchange the cancelled Kuwaiti dinar banknotes on the grounds that their serial numbers indicate that they are part of a batch of Kuwaiti dinar banknotes that were cancelled by the Government of Kuwait as a result of their misappropriation by Iraqi officials when they seized control of the CBK.

28. While this issue was dealt with in the "Report and recommendations made by the Panel of Commissioners concerning the second instalment of 'E4' claims" (S/AC.26/1999/17) ("the Second 'E4' Report"), the factual circumstances of the claims in the second instalment were different to those now before the Panel. In the second instalment claims, Kuwaiti co-operative societies that continued to trade during Iraq's invasion and occupation of Kuwait sought compensation for losses suffered as a result of the receipt of cancelled Kuwaiti dinar banknotes in return for the sale of their goods. The Panel found that such losses were compensable in principle.

29. In the third instalment claims, the cancelled Kuwaiti dinar banknotes were received by the claimants, in the majority of cases, directly from the CBK for circulation shortly before Iraq's invasion of Kuwait. From investigations made during the on-site visit to Kuwait, which included physical inspection of the notes, it was observed that, in many cases, the notes remained unopened in the original packaging in which they had been received by the claimants from the CBK. Many claimants confirmed that the CBK had debited the claimants' current accounts with the CBK for the value of the banknotes prior to Iraq's invasion. This indicates that the notes

which were held by claimants in their original packaging were not part of the batch stolen by the Iraqi officials from the CBK and therefore more notes were cancelled by the CBK than were actually stolen. In cases where the cancelled notes were not in their original packaging, it appears that they were received by claimants during the period of Iraq's invasion and occupation.

30. The Panel finds that losses arising from the cancellation of Kuwaiti dinar banknotes by the CBK, in circumstances where such notes were received by the claimants directly from the CBK prior to Iraq's invasion and occupation of Kuwait, arose as a result of administrative difficulties faced by the CBK in identifying the correct serial numbers of the stolen currency while operating in exile. The notes in question could not have been part of the currency which was misappropriated by Iraqi officials when they seized control of the CBK, because the currency had already been dispatched to the claimants by the CBK for circulation prior to Iraq's invasion of Kuwait and the notes were still held by the claimants in their original packaging upon liberation. Accordingly, the Panel finds that such losses are not compensable. The Panel distinguishes these claims, and the factual circumstances thereof, from the second instalment claims, where co-operative societies and other Kuwaiti businesses received the cancelled Kuwaiti banknotes in return for the provision of goods and services.

31. To the extent that claimants hold cancelled Kuwaiti dinar banknotes that were not received directly from the CBK prior to Iraq's invasion of Kuwait, losses arising from the receipt of such cancelled banknotes are compensable if such notes were received by claimants who continued to trade during Iraq's invasion and occupation of Kuwait, and the cancelled notes were received in return for the provision of goods and services (i.e., the factual circumstances are identical to those in the second instalment of "E4" claims). However, where such banknotes were received and deposited by Kuwaiti bank claimants during the period of Iraq's invasion and occupation of Kuwait, the Panel notes that such claimants have not suffered a loss thereby due to the fact that, upon liberation, all Kuwaiti bank accounts were reinstated to their positions immediately prior to Iraq's invasion and occupation of Kuwait.

D. Losses arising from movements in currency exchange rates

32. A number of claimants allege that they have suffered losses arising from movements in currency exchange rates, for example in connection with transactions such as currency options contracts and loan facilities granted in United States dollars by the CBK upon liberation.

33. Two claimants, Al Ahli Bank and Al Kuwait Real Estate Bank, allege that they suffered losses arising from exposure to fluctuations in foreign currency exchange rates, as a result of borrowing United States dollars from the CBK after the liberation of Kuwait. The claimants allege that, prior to the invasion, they maintained a fully matched foreign currency

position, i.e., they held foreign currency assets equal to their foreign currency liabilities.

34. One claimant, Al Ahli Bank, states that it borrowed approximately US$1.19 billion from the CBK in 1991, in order to meet liabilities that arose when customers and banks wished to withdraw their deposits with the claimant upon liberation. The claimant states that, due to the sale of its foreign assets (see paras. 23-26, supra), it had no alternative but to borrow funds from the CBK to meet its liabilities to customers upon liberation. The borrowings were used to repay a range of liabilities denominated principally in Kuwaiti dinars. The claimant suffered a loss in Kuwaiti dinars when the amount outstanding to the CBK in United States dollars was converted into Kuwaiti dinars in the claimant's financial statements for the year ending December 1992. In the period between the granting of the facility in 1991 and the preparation of the claimant's financial statements in 1992, the Kuwaiti dinar had depreciated against the United States dollar, resulting in an increased Kuwaiti dinar liability of the claimant to the CBK. A similar claim is advanced by Al Kuwait Real Estate Bank.

35. The Panel finds that, rather than resulting from Iraq's invasion and occupation of Kuwait, the losses claimed by Al Ahli Bank and Al Kuwait Real Estate Bank arose as a result of the movement in exchange rates between the United States dollar and the Kuwaiti dinar (in particular, the depreciation of the Kuwaiti dinar against the United States dollar), between the dates the loans were drawn down from the CBK and the dates upon which the losses were recorded in the claimants' financial statements. Further, such depreciation of the Kuwaiti dinar against the United States dollar took place in 1992 and 1993. Accordingly, the Panel finds that such losses are not compensable.

1. Options contracts

36. One claimant, the Industrial Bank of Kuwait ("IBK"), seeks compensation for foreign exchange losses arising out of currency options contracts that were current as at 2 August 1990. A currency option is the right, but not the obligation, to buy (known as a "call" option) or sell (known as a "put" option) a currency against delivery of another currency, at a specified rate (known as the "strike price") for a specified period of time, which ends at the expiry date. For this right, the buyer of the option pays a premium to the seller.

37. Prior to Iraq's invasion and occupation of Kuwait, IBK sold to Morgan Guaranty Trust ("MGT") a Pounds sterling call/dollar put option for an amount of GBP 2 million, at a strike price of 1GBP = US$1.8550. The option was due to expire on 30 August 1990. MGT chose to exercise the option on 20 August 1990, but IBK was unable to settle its obligations until 18 January 1991. IBK alleges that, as a result, it suffered a foreign exchange loss as exchange rates moved against it between August 1990, when MGT exercised the option, and January 1991, when it was able to settle its

obligations by purchasing the requisite amount of Pounds sterling at a price of 1GBP = US$1.95130. IBK seeks compensation for the foreign exchange losses incurred and, in particular, the increased cost of purchasing the Pounds sterling in January 1991.

38. The Panel finds that the loss incurred by the claimant arose from its inability to administer its operations in Kuwait after Iraq's invasion of Kuwait, and that such a loss is therefore a direct result of Iraq's invasion and occupation of Kuwait. As to the quantification of the loss, the Panel recommends an award based on the movement in the United States dollar/Pounds sterling exchange rate between the strike price and the date on which the transaction was finally settled by IBK. The Panel recommends that the claim be adjusted to offset any "risk of overstatement" arising from the fact that the claimant assumed a degree of risk beyond the strike price for a certain period of time.

39. IBK was also a party to a number of other matching options contracts that were current on 2 August 1990. Under the first contract, IBK bought a Japanese Yen call/United States dollar put option for US$2,000,000 from Citibank at a strike price of Japanese Yen 151. IBK then sold to Citibank a Japanese Yen call/United States dollar put option for US$1,000,000 at a strike price of Japanese Yen 151, leaving a net balance of US$1,000,000 open with Citibank. Finally, IBK sold to Arab Bank Corporation, Bahrain ("ABC") a Japanese Yen call/United States dollar put option for US$1,000,000 at a strike price of Japanese Yen 151. The net result of those transactions meant that if ABC exercised its right to pay IBK US$1,000,000 and receive Japanese Yen 151,000,000, IBK would have a similar right to pay the same United States dollar amounts and receive the same Japanese Yen amounts from Citibank. Hence, IBK had no net exposure, provided that it could exercise its option rights on Citibank. These transactions would normally result in a profit for IBK because the fees received on sales of the options were larger than the amount paid for the purchase.

40. ABC exercised its option on 16 August 1990. However, IBK could no longer exercise its rights on Citibank, which closed out its option with IBK upon payment of a premium. When IBK had to settle the deal after liberation, it had to buy Japanese Yen 151,000,000 at the current market rate of Japanese Yen 128.333. IBK therefore received US$1,000,000 but had to pay US$1,176,626 to purchase the requisite amount of Japanese Yen. IBK's claim is for the loss of US$176,000, representing the extra cost incurred in purchasing Japanese Yen to settle the transaction with ABC, less the premium it received from Citibank in closing out its option.

41. The Panel finds that the loss incurred by the claimant arose from its inability to administer its operations after Iraq's invasion of Kuwait, and in particular its inability to mitigate any potential loss resulting from the actions of ABC and Citibank when exercising their contractual rights under the options contracts. The Panel therefore finds that the loss incurred by IBK is compensable in the amount claimed.

42. Kuwait Finance House ("KFH") seeks compensation for losses incurred in connection with contracts for the sale and purchase of foreign currencies that were entered into on 31 July 1990. The contracts were matching exchange contracts rather than options, and therefore represented fixed commitments rather than contingent transactions that may or may not be exercised by one of the parties.

43. The claimant had two matching contracts in place on 31 July 1990, with settlement due to take place on 2 August 1990. The first contract was with Chemical Bank in New York to buy US$25 million for Japanese Yen at a rate of 146.18. The second contract was with Chase Manhattan Bank in Singapore to sell US$25 million for Japanese Yen at a rate of 147.42. The net effect of the transactions would be a profit to the claimant of Japanese Yen 31,000,000.

44. The evidence filed by the claimant shows that Chase Manhattan Bank considered itself as released from its obligations to the claimant under the second contract when the claimant failed to deposit the amount of US$25 million in Chase Manhattan's account. As a result, the contract with Chemical Bank remained open and unmatched, leaving the claimant with a purchase of US$25 million for Japanese Yen at 146.18. The claimant also states that it was only able to identify this problem in late March 1991, at which time it attempted to get Chase Manhattan to reinstate its original deal. It was not until December 1991 that the claimant matched the transaction (known as "squaring off"), at which time the rate had declined to 128.24, resulting in a loss to the claimant of Japanese Yen 448,500,000.

45. KFH has claimed compensation under the category of other losses, for the financial gain it would have made on the original transactions, the loss it made when it matched the outstanding transaction with Chemical Bank in December 1991, and the difference between the amount of interest it had to pay to Chemical Bank on the Japanese Yen and the interest it received on the United States dollars sold to and purchased from Chemical Bank. The claimant recognizes that it could have squared off the Chemical Bank deal in April 1991, when the rate was 138.15, and has adjusted its claim to reduce it to the loss that would have been incurred had the claimant acted at that time.

46. The Panel finds that the claimant has suffered a loss as a direct result of its inability to manage its affairs after Iraq's invasion and occupation of Kuwait and, in particular, its inability to deposit with Chase Manhattan the US$25 million that it had on deposit at Chemical Bank. As to quantification of the loss, the Panel finds that the first part of the claim, namely the financial gain that the claimant would have achieved on the transactions, should be reclassified and reviewed as a loss of profits claim.

47. For the second part of the claim, namely the loss suffered when the claimant squared off the transaction in December 1991, the Panel recommends

that compensation be awarded based on the difference between the United States dollar/Japanese Yen exchange rate applicable to the contract with Chemical Bank and the exchange rate prevailing in April 1991, when the claimant was in a position to square off the transactions.

48. However, the Panel notes that the claimant's decision to accept the unilateral liquidation of one arm of the transaction by Chase Manhattan Bank, while accepting its obligations to Chemical Bank, appears to be an independent business decision, which warrants an adjustment to the claim so as to offset the loss attributable to the claimant's actions.

49. As for the final element of the claim, namely the net interest payable by the claimant, the Panel finds that the claimant failed to submit sufficient evidence to substantiate the amount claimed.

2. Early redemption of bonds

50. One claimant, the National Bank of Kuwait, alleges that due to the need for liquidity, it sold a number of private placement bonds designated in Kuwaiti dinars, which it had taken up during the period from November 1987 to April 1989. The claimant states that the bonds were not quoted on any stock exchange, being the subject of private placements and therefore there was no mechanism by which these bonds could be traded. The claimant alleges that the bond issuers had met all their obligations as at the date of Iraq's invasion and occupation of Kuwait, that it was its intention to hold the bonds until maturity in 1992, 1993 and 1994 respectively, and had it done so, the full Kuwaiti dinar nominal value of the bonds would have been received in the denominated currency.

51. Following Iraq's invasion of Kuwait, the claimant entered into negotiations with the issuers regarding early redemption of the bonds. Redemption in Kuwaiti dinars was not possible, the currency having been withdrawn from circulation by Iraq during its invasion and occupation of Kuwait. Consequently, the redemption was in United States dollars. The amount received by the claimant was such that it suffered a penalty for early redemption. In support of the amount claimed, the claimant has provided copies of the purchase and settlement agreements. The claimant seeks compensation for the incremental and extraordinary losses arising from the redemption.

52. As discussed in paragraph 34 supra, the Panel finds that the need to realise assets by claimants such as the National Bank of Kuwait arose as a result of Iraq's invasion and occupation of Kuwait. The Panel notes that as the bonds were private placements with no quoted value, it was reasonable for the claimants to seek to liquidate these assets with the issuer. As the bonds were valued at par at the date of sale, and would normally have been redeemed for face value in Kuwaiti dinars upon maturity, the Panel finds that the claimant has provided sufficient evidence to demonstrate that the amount claimed represents the cost of liquidating those assets, and that it is an incremental cost that would not otherwise

have been incurred by the claimant. The Panel therefore recommends that compensation be awarded in the amount claimed.

53. The Panel's recommendations with respect to losses arising from movements in currency exchange rates are set out in annex II.

E. Losses arising from loans to Rafidain Bank

54. Four claimants, namely Al Ahli Bank, Al Kuwait Real Estate Bank, National Bank of Kuwait and Kuwait Finance House, have claimed for amounts due from Rafidain Bank in Iraq ("Rafidain"), in connection with syndicated loans in which the claimants participated and in connection with letters of credit issued by Rafidain.

55. The claim of Al Ahli Bank relates to three loans. The first is a US$500 million syndicated loan granted to Rafidain on 25 October 1985. The loan was repayable in seven instalments commencing on 25 October 1987 and finishing on 25 October 1990. Prior to the date on which the first instalment fell due, Rafidain requested that the payments be rescheduled, payable in 11 instalments commencing 25 April 1988 and finishing on 25 October 1993. A supplemental agreement was entered into on 1 November 1987 to give effect to the agreed rescheduling, and Rafidain paid the first four instalments that fell due in 1988 and 1989.

56. The second loan relates to a facility agreement dated 21 November 1983. The claimant alleges that, in 1982, Baghdad Sewerage Board ("BSB") issued promissory notes, guaranteed by Rafidain in favor of Wataneya International Contracting Co. ("Wataneya"). A syndicate of banks, including the claimant, entered into a Note Purchase Facility Agreement that provided for the syndicate's purchase of the notes from Wataneya (with recourse to Wataneya and the guarantor, Rafidain). The claimant states that, pursuant to this agreement, 17 notes were purchased with maturity dates falling due between 5 April 1986 and 16 September 1987. By the end of August 1987, one note had been repaid. Among the other 16 notes, 14 had become repayable but had not been paid on maturity. The total amount outstanding was US$ 24,097,573.42.

57. The claimant alleges that, on 8 September 1987, all outstanding notes were refinanced with Rafidain by Alubaf Arab International Bank acting as agent for the syndicate of banks ("the Agent"). Concurrently, an agreement was entered into by the Agent with the syndicate of banks to record the manner in which the banks would participate in the refinancing. The claimant asserts that, pursuant to the agreement, Rafidain agreed to pay the amount in seven semi-annual instalments beginning 10 September 1990 to 8 September 1993. Rafidain allegedly paid all interest until 19 March 1990 but did not pay the instalments due from 10 September 1990 onwards, nor the interest thereon after Iraq's invasion of Kuwait.

58. The third loan represents the unpaid sums owed by Rafidain to the claimant, the latter being part of a syndicate of banks that lent money to

Rafidain by a syndicated loan agreement entered into on 28 March 1983 and guaranteed by the Central Bank of Iraq. The loan was repayable in seven semi-annual instalments commencing on 28 March 1985 and finishing on 28 March 1988. The first three instalments were paid, however the instalment due in September 1986 was not paid when it fell due.

59. On 19 March 1987, Rafidain entered into a supplemental agreement with the syndicate of banks to reschedule the remaining four instalments due. The balance was rescheduled to be paid in seven semi-annual instalments commencing on 30 March 1987 and ending on 29 March 1990. The first four instalments were paid when due but, on 15 March 1990, a second supplemental agreement was entered into between Rafidain and the syndicate to reschedule the remaining three instalments due under the supplemental agreement. The remaining three instalments were rescheduled to be paid in nine instalments due on 28 February 1990, 29 June 1990 and then semi-annually until 29 December 1993. The first two instalments were paid and the claim is for the balance of seven instalments due under the second supplemental agreement.

60. The claim of Al Kuwait Real Estate Bank relates to a single syndicated loan granted to Rafidain, in which the claimant participated. The claimant states that the original loan agreement was dated 26 November 1986 and that the loan was in the process of being rescheduled when Iraq's invasion and occupation of Kuwait occurred. The last repayments by Rafidain were made on 15 November 1989 and 12 February 1990, following which unpaid instalments of principal and interest were rolled over pending the rescheduling of the loan. The claimant informed the Commission during the on-site visit to Kuwait that the loan was non-performing as at the date of Iraq's invasion and occupation of Kuwait.

61. The National Bank of Kuwait is claiming for amounts due by Rafidain in connection with letters of credit transactions where Rafidain was the issuing bank and the National Bank of Kuwait was acting as confirming bank. Finally, the claim of Kuwait Finance House relates to documents drawn on Rafidain in favour of Kuwait Finance House, in connection with a letter of credit transaction in which Rafidain was the issuing bank.

62. The first issue the Panel had to consider in determining whether claims arising from loans to Rafidain are compensable is whether they fall within the jurisdiction of the Commission. Paragraph 16 of Security Council resolution 687 (1991) provides:

> "[The Security Council] [r]eaffirms that Iraq, without prejudice to the debts and obligations of Iraq arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage ... or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait".

63. With respect to the clause relating to the debts and obligations of Iraq arising prior to 2 August 1990 (the "arising prior to" clause), the Panel has considered the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E2' claims" (S/AC.26/1998/7) (the "First 'E2' Report"), wherein the "E2" Panel concluded that the "arising prior to" clause was intended to exclude from the jurisdiction of the Commission the old debt of Iraq that existed at the time of Iraq's invasion of Kuwait on 2 August 1990.

64. In determining what would constitute Iraq's old debt that existed on 2 August 1990, and in particular, what debts and obligations of Iraq fall within the meaning of the "arising prior to" clause, the "E2" Panel traced the growth of Iraq's foreign debt during the 1980s, and concluded that these same debts also distorted the entire economy of Iraq with the consequence that some old debts appeared to be new as of 2 August 1990. The "E2" Panel also noted in paragraph 87 of the First "E2" Report that:

> "[i]n some instances, old and overdue debts were rescheduled. The rescheduling of such old debts perhaps renewed them under applicable law, but did not make them new debts in the sense of resolution 687 (1991)".

65. The Panel reiterates the "E2" Panel's findings and adopts its conclusions for the purposes of the review of these claims. Accordingly, the Panel finds that loans due from Iraqi parties that had been rescheduled prior to Iraq's invasion of Kuwait constitute debts or obligations of Iraq arising prior to 2 August 1990 and, as such, are excluded from the jurisdiction of the Commission.

66. In the case of Al Ahli Bank, the Panel finds that the original loan agreements giving rise to the liability of Rafidain under the three separate loans were each rescheduled on at least one occasion prior to Iraq's invasion and occupation of Kuwait. In the circumstances, the Panel finds that the claims of Al Ahli Bank in relation to these three loans are excluded from the jurisdiction of the Commission, as they represent debts or obligations of Iraq arising prior to Iraq's invasion of Kuwait within the meaning of paragraph 16 of Security Council Resolution 687.

67. In the case of Al Kuwait Real Estate Bank, the Panel found that the debt was in default several months prior to Iraq's invasion and occupation of Kuwait and that the claimant had acknowledged it was a non-performing loan. Accordingly, the Panel finds that the claim is not compensable as it is not a loss directly resulting from Iraq's invasion and occupation of Kuwait.

68. In the case of the National Bank of Kuwait, the Panel considered when the obligation of Rafidain under each letter of credit arose. In this regard, the Panel considered the First "E2" Report wherein the "E2" Panel concluded that the question of when a debt or obligation arises is determined by the claimant's performance. The second "E2" Panel (the "'E2A' Panel") is currently reviewing a number of claims that raise the

issue of performance under a letter of credit, and have concluded that it is the presentation of the stipulated documents by the beneficiary that completes the performance of the beneficiary and triggers the obligation of the issuing bank to pay the letter of credit.

69. The Panel agrees with the "E2A" Panel's conclusions. Accordingly, the Panel finds that the presentation of the stipulated documents by the National Bank of Kuwait to Rafidain under each letter of credit, which took place on various dates, all of which were prior to November 1989, triggered the obligation of Rafidain under each letter of credit. Therefore the Panel finds that the claim of the National Bank of Kuwait in relation to the letters of credit is excluded from the jurisdiction of the Commission.

70. Finally, in the case of Kuwait Finance House, the Panel finds that the underlying obligation of Rafidain arose upon the claimant's presentation of documents under the letter of credit, which occurred at the latest in 1989, and that the claim is therefore excluded from the jurisdiction of the Commission as it represents debts or obligations of Iraq that arose prior to Iraq's invasion of Kuwait, within the meaning of paragraph 16 of Security Council Resolution 687.

F. Losses arising from monies held on deposit in Iraq

71. Two claimants are seeking compensation for funds held in bank accounts in Iraq. Al Ahli Bank maintained an Iraqi dinar account with Rafidain and a United States dollar account with Al Rasheed Bank. It asserts that these balances were maintained to honour the claimant's demand drafts and transfers drawn on those banks. Evidence filed by the claimant and Iraq shows that the funds still exist in Iraq in the original accounts into which the funds were deposited. The claimant states that there is no possibility of obtaining these monies or seeking to recover them as a result of the lack of any diplomatic relations with Iraq. Al Kuwait Real Estate Bank also states that it held an Iraqi dinar account with Rafidain.

72. With respect to the compensability of claims for balances held with Iraqi banks, the Panel has considered the First "E2" Report, wherein the "E2" Panel found that a claim made by one of the claimants for the loss of use of funds held on deposit with Iraqi banks was not compensable. Since the claimant had acknowledged that the funds still existed in Iraq in the original accounts into which the funds had been deposited and had not been "expropriated, removed, stolen or destroyed", the "E2" Panel found that the claimant could not be compensated for loss of the funds.

73. The "E2" Panel considered a similar issue in its "Report and recommendations made by the Panel of Commissioners concerning the third instalment of 'E2' claims" (S/AC.26/1999/22) (the "Third 'E2' Report"), where it held that claims for amounts on deposit in Iraq that would have been locally used and were still available to the claimant were not compensable.

74. The Panel reiterates the "E2" findings and adopts its conclusions for the purposes of its review of these claims. The Panel finds that the claims by Al Ahli Bank and Al Kuwait Real Estate Bank are not compensable as losses directly resulting from Iraq's invasion and occupation of Kuwait, as the funds in question remain in the accounts into which they were originally deposited, and would have been used locally in any event.

G. Losses arising from overseas operations

75. Several claimants have made claims for the costs incurred in setting up and operating overseas offices to manage their affairs during Iraq's invasion and occupation of Kuwait. For example, one claimant, IBK, is claiming for the costs incurred in setting up a temporary London office from November 1990 until May 1991. Other claimants are claiming for the costs incurred in setting up offices in locations such as New York, Bahrain, Cairo and Cyprus. The activities carried out by these offices included management of international loan portfolios and sales thereof (see paragraphs 23-26, supra), liaising with customers and staff, and planning the return of the management to Kuwait and recommencement of business. The expenses claimed include rental of premises, recruitment of staff and other general office expenses.

76. The Panel recognized the fact that Kuwaiti banks could not operate in Kuwait during the period of Iraq's occupation. The Panel also recognized that the decision by IBK and other Kuwaiti banks and financial institutions to set up overseas operations to manage their affairs, served to mitigate those claimants' losses and finds that such costs are therefore compensable as losses arising directly from Iraq's invasion and occupation of Kuwait. As to the quantification of such losses, it is the Panel's view that only those costs which are incremental in nature, i.e., those above and beyond the usual costs incurred by the claimant for such types of expense, are compensable. The Panel further finds that a reasonable time period for the operation of such overseas offices would be up to the date upon which the claimant could reasonably have expected to recommence business in Kuwait.

77. The Panel's recommendations with respect to losses arising from overseas operations are set out in annex II.

H. Losses arising from Visa card transactions

78. Three claimants, namely Burgan Bank, Gulf Bank and Commercial Bank, claim that, due to the loss of computer records in transit at the time of Iraq's invasion of Kuwait, it was unable to debit customers' accounts for the value of credit card debts incurred by them in late July and early August 1990. The claimants were, however, liable to reimburse Visa International for these amounts. The Panel considered evidence that, after liberation, the claimants tried to obtain the relevant records from Visa International, but were unable to do so as Visa International did not

retain records for a sufficient length of time. While records were retained on microfilm for the relevant period, the claimants could not retrieve those microfilm records without certain reference numbers, such reference numbers being lost in transit with the original records.

79. The Panel finds that the loss of the computer records in transit and subsequent inability to retrieve the missing information are a direct result of Iraq's invasion and occupation of Kuwait. The Panel finds that payments made by claimants to Visa International that could not be recovered from customers due to the inability to retrieve such missing information are compensable in full.

80. The Panel's recommendations with respect to losses arising from Visa card transactions are set out in annex II.

VI. THE CLAIMS

81. Having resolved the common legal and factual issues, the Panel then considered the remaining issues arising in the third instalment claims. Its determinations are set out by way of loss category, as in the case of the First and Second "E4" Reports.

A. Contract

82. Five claimants in this instalment asserted claims aggregating KD 2,325,164 (approximately US$8,045,550) for loss of contract. Three of those claims relate to losses arising from Visa card transactions and these claims have been discussed in paragraphs 78-80, supra. A fourth claimant, Kuwait Foreign Trading & Contracting and Investment Company ("KFTCIC"), is claiming for losses incurred in connection with the cancellation of a contract for the sale of real estate, allegedly due to Iraq's invasion and occupation of Kuwait.

83. KFTCIC executed a "Deferred Deed of Realty Sale" ("the Agreement") on 4 July 1989, for the sale of real estate to Mr. Abdul Al Wazzan for the sum of KD 5,300,000. The initial deposit in the amount of KD 1,300,000 was paid on 15 July 1989, and the remaining amount was payable in four annual instalments of KD 1 million every 15th July from 1990 to 1993. The claimant alleges that, due to Iraq's invasion of Kuwait, the Agreement was treated as cancelled by reason of force majeure and the deposit of KD 1,300,000 was returned to Mr. Al Wazzan on 22 June 1992. The claimant alleges that it renewed attempts to sell the property following liberation. On 10 October 1992, the claimant sold the property to a third party for a total consideration of KD 3,180,000. The claimant seeks compensation in the sum of KD 2,120,000, being the difference between the sale price pursuant to the Agreement and the sale price achieved upon the sale to the third party.

84. Kuwait Insurance Company has raised a claim for losses arising out of payments made under a life insurance policy and an aviation insurance policy. The Panel has been informed that insurance payments made in respect of life insurance and aviation insurance policies are the subject of nearly two-thirds of the claims in the second instalment of "E/F" claims. In the circumstances, the Panel has agreed that these two portions of the claim, totalling KD 68,000, should be severed from the "E4" claim of Kuwait Insurance Company and transferred as separate claims to the second instalment of "E/F" claims.

1. Compensability

85. The Panel determines whether a contract claim is compensable by evaluating the loss under the appropriate review methodology as discussed in the First "E4" Report.

2. Verification and valuation method

86. The verification and valuation method adopted by the Panel for valuing loss of contract claims is the same as that set forth in paragraphs 77-84 of the First "E4" Report.

3. Evidence submitted

87. For KFTCIC, the Panel considered evidence that a contractual relationship existed between the claimant and Mr. Al Wazzan prior to the invasion. The Panel also considered evidence that Mr. Al Wazzan sought to delay payment of the first instalment of KD 1 million, which fell due on 15 July 1990, and that the claimant consented to an extension of time to pay the instalment until 15 September 1990. However, the Panel notes that, despite requests for the same, the claimant has failed to explain the circumstances surrounding the alleged cancellation or repudiation of the Agreement and the return of the deposit to Mr. Al Wazzan. In the circumstances, the claimant has not demonstrated that the cancellation of the Agreement and the return of the deposit to Mr. Al Wazzan were a direct result of Iraq's invasion and occupation of Kuwait and accordingly the Panel finds that the claim is not compensable.

88. The Panel's recommendations with respect to contract losses are set out in annex II.

B. Real property

89. Fourteen claimants in this instalment asserted claims aggregating KD 7,870,758 (approximately US$27,234,457) for loss of real property.

1. Compensability

90. These claims relate to damage to various freehold and leasehold premises in Kuwait. The compensability standards applied by the Panel are the same as those used in the first instalment. (See the First "E4" Report, paras. 89-91.) As was the case in the first instalment of "E4" claims, most claimants established the fact and nature of damage to their buildings and facilities by providing copies of witness statements, survey reports and photographs. As in the first instalment of "E4" claims, the nature of damage alleged and the location of all the properties in Kuwait provided conclusive evidence that the damage was a result of military operations and the breakdown of civil order in Kuwait during the period of Iraq's invasion and occupation of Kuwait. Accordingly, the direct causal link between the losses alleged and Iraq's invasion and occupation of Kuwait is sufficiently well established in the third instalment claims for loss of real property.

91. All claims were based on the actual costs incurred in repairing the properties or estimates of such costs.

2. Verification and valuation method

92. The verification and valuation method adopted by the Panel for valuing loss of real property claims is the same as set forth in paragraphs 92-101 of the First "E4" Report.

3. Evidence submitted

93. Most claimants submitted copies of title deeds or leases to establish their interest in the affected properties. Where leases were submitted, the secretariat performed additional checks to ensure that no duplicate claims had been filed by the owners of the leased properties. The Panel also referred to the claimants' audited accounts to corroborate the claimants' interest in the affected properties.

94. Other claimants sought to support repair costs by providing copies of payment receipts or certificates, invoices, contract documents and audited accounts. However, as in the first instalment of "E4" claims, most claimants did not include any adjustments for applicable maintenance or depreciation in their asserted losses. The Panel adjusted the claims to account for these items. Similar adjustments were made by the Panel in cases of "betterment" as defined in paragraph 97 of the First "E4" Report.

95. Where a claimant based its claim on estimated repair costs and did not give a reasonable explanation for its failure to carry out the repairs, the Panel finds a "risk of overstatement" to exist. Such claims were adjusted to offset such "risk of overstatement".

96. The Panel's recommendations with respect to real property losses are set out in annex II.

C. Tangible property

97. Seventeen claimants in this instalment asserted claims aggregating KD 28,862,820 (approximately US$99,871,349) for loss of tangible property. The claims for loss of tangible property relate mainly to loss of furniture, fixtures, equipment and vehicles. Other claims in this category relate to loss of cash and five claims relate to loss of stock.

1. Compensability

98. With regard to the compensability of claims for tangible property losses, the Panel applied the same approach taken in the First "E4" Report. (See the First "E4" Report, paras. 108-109.) Most claimants establish the fact and nature of damage to tangible property by providing copies of witness statements, statements from their audited accounts and photographs. Also, as in the case of the first instalment of "E4" claims, the claims establish, in accordance with paragraph 21 of Governing Council decision 7, that the damage was a result of military operations in Kuwait, actions by officials, agents or employees of the Government of Iraq or its controlled entities during the period of Iraq's invasion and occupation of Kuwait, in connection with the invasion or occupation and the breakdown of civil order in Kuwait during that period. Accordingly, the direct causal link between the loss alleged and Iraq's invasion and occupation of Kuwait is sufficiently well established in the third instalment claims for loss of tangible property.

99. Two claimants seek compensation for loss of tangible property arising from the actions of their employees during the occupation period. National Bank of Kuwait seeks compensation for the loss of a leased vehicle that was taken to Jordan by an employee. The claimant had to repay the leasing company the value of the vehicle. Gulf Bank seeks compensation for the loss of travellers cheques that were removed from the claimant's safes by an employee and subsequently cashed in Cairo. The Panel finds that such losses are not compensable. The acts in question were carried out by the claimants' employees and the Panel finds that losses arising from such acts are not direct losses resulting from Iraq's invasion and occupation of Kuwait.

2. Verification and valuation method

100. The Panel's approach to the verification and valuation of tangible property losses depends on the nature of the asset affected. Accordingly, the approach adopted varies for stock, cash, vehicles and other tangible property losses. The verification and valuation methodology adopted by the Panel for loss of tangible property claims is the same as set forth in paragraphs 110-135 of the First "E4" Report.

3. Evidence submitted

(a) Tangible property

101. Most claimants in this instalment submitted audited accounts to establish the existence, ownership and value of the tangible assets damaged or lost as a direct result of Iraq's invasion and occupation of Kuwait. In establishing the fact and cause of loss, claimants relied on assertions in their statement of claim and witness statements. These assertions were generally corroborated by additional documents, such as photographs and independent survey reports. The Panel also relied on the claimants' post-liberation audited accounts. These accounts showed the losses of tangible property as extraordinary losses incurred as a direct result of Iraq's invasion and occupation of Kuwait, and as such provided additional independent verification of the loss.

102. Many claimants sought to value their loss using estimated repair or replacement costs. As in the case of similar real property claims, such claims were found to present a "risk of overstatement" if the claimant did not provide sufficient evidence explaining why it had not repaired or replaced the assets concerned. In some cases, the Panel was able to rely on the claimant's post-liberation accounts to determine whether the claimant had subsequently repaired or replaced the affected assets.

(b) Stock

103. For claimants alleging a loss of stock claim, the existence, ownership and value of stock lost were supported by copies of the claimants' audited accounts, original inventory purchase invoices and "roll-forward" calculations, as defined in paragraph 119 of the First "E4" Report.

104. As was the case for the first instalment of "E4" claims, successful claims for loss of goods in transit related to goods that were in Kuwait on the day of Iraq's invasion and that were subsequently lost. These claimants were able to establish the ownership, existence and loss of the goods by providing certificates issued by the Kuwaiti port authorities or shipping agents.

(c) Cash

105. As was the case for the first instalment of "E4" claims, successful claimants alleging cash losses were able to substantiate their claims by providing, among other things, contemporaneous records establishing cash held on 2 August 1990, such as previous month-end cash balances, copies of daily bank deposit statements, cash flow registers and monthly sales ledgers.

106. Claimants for whom no award has been recommended generally sought to rely only on witness statements without providing any additional documents substantiating their claims.

107. One claimant, Commercial Facilities Company, submitted a claim for cash lost in transit between the claimant's premises and its bank, Gulf Bank. The claimant states that it had an arrangement with Gulf Bank whereby a security company, Al Mulla Security Co ("Al Mulla"), would collect the claimant's cash takings on a daily basis and deposit them at Gulf Bank, where the money would be credited to the claimant's account. The loss claimed by Commercial Facilities Company relates to the cash takings collected by Al Mulla on 1 August 1990, which were stolen in transit to Gulf Bank.

108. The Panel considered evidence filed by the claimant, including the agreement between the claimant and Gulf Bank, which stipulated that Al Mulla, appointed by Gulf Bank, would be responsible for any losses occurring between the time the money was collected from the claimant and when it was deposited at Gulf Bank. A cross check revealed that Al Mulla has also filed a claim for compensation before the Commission in respect of the cash it collected from Commercial Facilities Company on 1 August 1990. A further cross check confirmed that Gulf Bank has not filed a claim in respect of the same cash.

109. While it appears that Commercial Facilities Company would be entitled to seek repayment of the cash from Gulf Bank or its agent, Al Mulla, elsewhere, it is the Panel's view that the appropriate claim before the Commission in respect of the loss of cash in transit is that of Al Mulla. The Panel finds that when Commercial Facilities Company handed over the cash to Al Mulla, the risk of loss of the cash passed to Al Mulla and Gulf Bank, Al Mulla being the appointed agent of Gulf Bank for collection of the cash. Accordingly, the Panel recommends that no compensation be awarded to Commercial Facilities Company in respect of their claim for loss of cash.

(d) Vehicles

110. Virtually all claimants were able to establish their ownership of lost vehicles on the date of the loss by providing copies of the deregistration certificates issued by the Government of Kuwait. The fact of loss was generally established by the deregistration certificates, together with additional substantiating documents such as witness statements describing the circumstances of the loss and post-liberation audited accounts recording the loss of vehicles as an extraordinary item.

111. Where claimants did not provide deregistration certificates or where the name of the owner in the deregistration certificate could not be linked to the claimant or its owners, directors or employees, the Panel recommends that no compensation be awarded.

112. The asserted values of the vehicles lost were separately verified by the Panel against vehicle values contained in the M.V.V. Table (as defined in paragraph 135 of the First "E4" Report) or, for vehicles not listed in the M.V.V. Table, against other third party estimates. In the case of third party estimates, the Panel tested these estimates by applying alternative valuation methods such as the net book value and depreciated replacement cost methods.

113. The Panel's recommendations with respect to tangible property losses are set out in annex II.

D. Income-producing property

114. One claimant, KFTCIC, has submitted a loss of contract claim that was reclassified and reviewed as a claim for loss of income-producing property.

115. KFTCIC seeks compensation for the loss it allegedly suffered as a result of a decrease in the market value of its real property portfolio. The claimant alleges that, as a result of the invasion and occupation, its real property portfolio declined in value resulting in a loss recorded on the claimant's balance sheet. The Panel found that the claimant had not sufficiently established that the decrease in value of the claimant's real property portfolio was a direct result of Iraq's invasion and occupation of Kuwait. Other factors may have caused such a decline, in particular the economic conditions prevailing in Kuwait in the years following liberation. Accordingly, the Panel finds that the loss claimed is not compensable.

116. The Panel's recommendations with respect to income-producing property losses are set out in annex II.

E. Payment or relief to others

117. Fourteen claimants in this instalment submitted claims aggregating KD 3,176,757 (approximately US$10,992,239) for payment or relief to others. Several claimants seek reimbursement for redundancy payments or "termination indemnities" that they paid to their non-Kuwaiti employees in respect of the termination of those employees' employment contracts. Two claimants, Al Ahli Bank and IBK seek reimbursement for incentives paid to employees to encourage them to return to Kuwait upon liberation, and in the case of Al Ahli Bank, for bonus payments made to employees who assisted the claimant in protecting its assets during the occupation period, and to cashiers who worked overtime in order to facilitate the exchange of old Kuwaiti dinars for the new issue of currency.

1. Compensability

118. The Panel followed the same approach taken in the First "E4" Report, (see paragraphs 153-154), with the addition of the items noted below. For amounts claimed by way of compensation for incentives paid to employees to encourage them to return to Kuwait, and for bonus payments for cashiers working overtime, the Panel finds that such payments were the result of independent business decisions by the claimants concerned and that such discretionary bonus payments are not compensable as losses directly resulting from Iraq's invasion and occupation of Kuwait. As regards bonus payments made to employees who assisted the claimant during the occupation period, the Panel finds that such payments are compensable as they effectively mitigated the losses that the claimant would otherwise have suffered during the occupation period. However, the Panel finds that such payments are compensable subject to the following conditions:

(a) the worker must have been employed in these particular roles;

(b) the time period and the payment must appear reasonable; and

(c) such payments must be supported by sufficient evidence.

119. In respect of termination indemnities, i.e., amounts paid pursuant to an employment contract terminated during Iraq's invasion and occupation of Kuwait, the Panel followed the same approach taken in the Second "E4" Report (see paragraphs 72 to 74 thereof).

2. Verification and valuation method

120. The verification and valuation methodology adopted by the Panel for claims relating to payment or relief to others is the same as set forth in paragraphs 155-157 of the First "E4" Report. In addition, for claims relating to termination indemnities, the Panel verifies that the individuals receiving payments were employees of the claimant at the time of Iraq's invasion and occupation of Kuwait, by reference to employment contracts, payroll records or other appropriate documentary evidence.

3. Evidence submitted

121. The claims for payment of termination indemnities were adjusted to reflect the amount of the payment that represented an incremental cost to the claimant as a result of Iraq's invasion and occupation of Kuwait.

122. The Panel's recommendations with respect to payment or relief to others claims are set out in annex II.

F. Loss of profits

123. Nineteen claimants in this instalment submitted claims aggregating KD 206,369,128 (approximately US$714,080,028) for loss of profits. Two claimants, the Kuwait Foundation for the Advancement of Science ("KFAS") and Zakat House, which are charitable organizations, have made claims under the category of other losses for non-receipt of voluntary contributions. These claims were reclassified by the Panel and reviewed as loss of profit claims.

1. Compensability

124. The four significant legal and factual issues raised by the first instalment claims are all raised by the third instalment claims. These issues all relate to the impact and assessment of (a) benefits received under the Government of Kuwait's post-liberation debt settlement programme, (b) windfall or exceptional profits earned by claimants in the period immediately following the liberation of Kuwait, (c) the indemnity period for loss of profits claims, and (d) claims for loss of profits selectively based on profitable lines of business. The conclusions reached by the Panel in relation to these issues are set forth in paragraphs 161-193 of the First "E4" Report. The Panel has applied these conclusions in its considerations and recommendations for the loss of profits claims in the third instalment, with the following additional considerations for those claims.

(a) The post-liberation Kuwaiti Difficult Debt Settlement Programme

125. As explained in the First "E4" Report, the CBK purchased from Kuwaiti banks and financial institutions the debt owed to these banks and institutions by Kuwaiti individuals and corporations. Many of these Kuwaiti banks and financial institutions are claimants in this instalment of "E4" claims. The debt was purchased from the selling banks and financial institutions against floating-rate Government bonds issued for that purpose. The debt purchased by the CBK included, in some instances, debts against which provisions for bad and doubtful debts had been made.

126. As a result of the purchase of these debts, there was an impact upon the profit and loss accounts of many third instalment claimants for the financial year ending in 1991, and on some occasions for the financial years 1992 and 1993, including, inter alia, the impact of the release of such provisions for bad and doubtful debts. The Panel reiterates its findings as stated in paragraph 172 of the First "E4" Report, that benefits received by claimants under the Difficult Debt Settlement Programme cannot be regarded as "compensating" any loss or damage suffered as a direct result of Iraq's invasion and occupation of Kuwait. Hence, in assessing the loss of profits suffered by third instalment claimants, any impact upon the profit and loss accounts of such claimants due to the Difficult Debt Settlement Programme has been removed when calculating the appropriate award for loss of profits.

(b) Non-receipt of voluntary contributions

127. As mentioned in paragraph 123 above, two claimants, KFAS and Zakat House, seek compensation for non-receipt of voluntary contributions. KFAS is a non-profit-making organization the activities of which include the funding of scientific research, the granting of scholarships and the publishing of scientific and technical books. Zakat House is also a non-profit-making organization which collects and distributes charity in Kuwait. Both claim that they rely on voluntary contributions from Kuwaiti companies and individuals for their operating revenues and to fund their charitable work. These claims were made under the category of other losses but have been reclassified and reviewed as loss of profit claims, for the reasons set out below.

128. With regard to the amounts claimed for loss of contributions, the Panel had to determine whether firstly, an organization that declares itself to operate on a non-profit basis could be compensated for loss of contributions in a manner similar to that for loss of profits and secondly, if so, whether the failure to receive voluntary contributions was a direct result of Iraq's invasion and occupation of Kuwait. In reaching its determination on these issues, the Panel considered the historical levels of contributions received by these claimants. The Panel found that these claimants received a consistent level of contributions in the three financial years preceding Iraq's invasion and occupation of Kuwait.

129. The Panel finds no basis upon which to conclude that these non-profit organizations, which rely on contributions for their operating revenues, should not be compensated in principle for the loss of such contributions, in the same manner that a for-profit organization is entitled to be compensated for loss of profits. The Panel also finds that the loss of contributions in the case of KFAS and Zakat House was a direct result of Iraq's invasion and occupation of Kuwait and that they should be compensated for such losses in a manner identical to that for loss of profits.

130. As regards quantification of the loss suffered by KFAS, the Panel finds that the claimant received substantial interest income during the period of Iraq's invasion and occupation of Kuwait. There is evidence that this income was due to cash balances that the claimant had on deposit throughout the two year period January 1990 to December 1991. The level of interest income is such that the claimant received income over the invasion period at a level higher than the historical average. In the circumstances, the Panel finds that the claimant has not suffered an actual loss over the occupation period and accordingly it recommends that no compensation be awarded.

131. In the case of Zakat House, the Panel recommends compensation based on the claimant's historical levels of income available for charitable distribution.

132. Another claimant, Kuwait Finance House, received a grant from the Government of Kuwait in 1991 in the sum of KD 42,444,000. The claimant recorded the receipt of this grant as exceptional income through its profit and loss account for the financial year ending December 1991. Evidence from the on-site visit to Kuwait shows that the grant was not part of the Difficult Debt Settlement Programme. The Panel finds that this claimant has been effectively compensated by the Government of Kuwait for the loss of profit suffered as a result of Iraq's invasion and occupation of Kuwait, and recommends that no compensation be awarded.

2. Verification and valuation method

133. The verification and valuation methodology adopted by the Panel for loss of profits claims is as set forth in paragraphs 194-202 of the First "E4" Report.

3. Evidence submitted

134. Claims based on separate lines of business were verified and valued applying the principles set out in the First "E4" Report in paragraphs 188-193. One claimant, Jazzim Al-Wassan, had five separate lines of business and each separate division was verified and valued according to the above principles.

135. The Panel's recommendations with respect to loss of profits claims are set out in annex II.

G. Receivables

136. Ten claimants in this instalment asserted claims for uncollectible receivables or "bad debts" aggregating KD 29,879,509 (approximately US$103,389,304). The majority of these claims were for outstanding consumer loans owed by non-Kuwaiti individuals to Kuwaiti banks prior to Iraq's invasion. Claims have also been made for amounts owed by and balances held by Rafidain. However, the Panel's determination on these claims is set out in paragraphs 54-70 supra. One claimant, Al Ahli Bank, is claiming for unpaid loans in respect of two borrowers accredited as martyrs. Al Ahli Bank is also claiming for losses incurred in connection with a letter of credit transaction in which it was acting as confirming bank. The claimant credited the beneficiary of the letter of credit, but was unable to recover payment from the issuing bank.

1. Compensability

137. Most claimants sought compensation for debts that remained uncollected because debtors had not returned to Kuwait after liberation. The issue raised is whether the uncollected debt had become uncollectible as a direct result of Iraq's invasion and occupation of Kuwait.

138. The Panel reiterates its determination on this issue as set out in paragraph 209 of the First "E4" Report, namely that claims for debts that have become uncollectible as a result of Iraq's invasion and occupation of Kuwait should demonstrate, by documentary or other appropriate evidence, the nature and amount of debt in question and the circumstances that caused the debt to become uncollectible.

139. Al Ahli Bank seeks compensation for losses incurred in connection with a documentary credit transaction, in which it was acting as confirming bank. The letter of credit ("L/C"), was issued by Middle East Bank in Karachi, in favour of a Kuwaiti party, Al Raay International Group ("Al Raay"). The L/C documents were received by the claimant for negotiation on 30 July 1990 and the claimant negotiated the L/C on 1 August 1990, allegedly in accordance with the L/C terms. The claimant sent a telex to Middle East Bank on 1 August 1990 confirming that negotiation of the L/C had taken place and that it was forwarding the documents to Middle East Bank by courier that day.

140. Al Ahli Bank claims that, as a result of Iraq's invasion and occupation of Kuwait, it was unable to dispatch the documents by courier as stated in its telex, and it was not until after liberation that it was able to present the documents to Middle East Bank for reimbursement. The claimant alleges that Middle East Bank refused to reimburse the claimant on the grounds of undue delay in presentation of the documents. The claimant states that it was, however, obliged to reimburse Al Raay for the amount of the L/C and that it has therefore suffered a loss in the amount of the L/C, directly resulting from Iraq's invasion and occupation of Kuwait.

141. The Panel considered evidence filed by the claimant and, in particular, a telex from Middle East Bank to the claimant dated 29 September 1991, stating that the basis of its refusal to pay the claimant was that the negotiation of the documents by the claimant was not in accordance with the L/C terms, as the documents should have been negotiated by 28 July 1990. Middle East Bank also alleged that there were discrepancies on the face of the shipping documents. Hence, the Panel finds that the refusal of Middle East Bank to reimburse the claimant does not relate to matters connected with Iraq's invasion and occupation of Kuwait, but is rather the result of a dispute between the parties as to the conformity of the documents and the validity of the negotiation by the claimant. The Panel finds that in these circumstances, the claim of Al Ahli Bank is not compensable.

2. Verification and valuation method

142. The third instalment claims for uncollectible receivables were verified and valued in the same manner as the first instalment claims. (See the First "E4" Report, paras. 211-215). Three claims satisfied the criteria established in the First "E4" Report. The remaining claimants failed to provide evidence to demonstrate that their debtors' inability to pay was a direct result of Iraq's invasion of Kuwait. This shortcoming was brought to the attention of the claimants. While a number of responses were received from claimants, none satisfied the above criteria.

3. Evidence submitted

143. As discussed above, the Panel disallows claims that rely on mere assertions that uncollected debts are ipso facto uncollectible because the debtors did not return to Kuwait.

144. In the case of Al Ahli Bank's claim for non-payment of loans by borrowers killed during the invasion and occupation, the Panel found that the claimant had provided sufficient evidence to demonstrate that the non-payment of the loans in question was a direct result of Iraq's invasion and occupation of Kuwait and recommends that compensation be awarded in full.

145. The Panel's recommendations with respect to uncollectible receivables are set out in annex II.

H. Restart costs

146. Twelve claimants in this instalment asserted claims aggregating KD 5,069,383 (approximately US$17,541,118) for restart costs. As in the Second "E4" Report, the amounts claimed as restart costs have been reviewed using the existing methodology. Thus, the Panel verifies whether the claim is supported by proof of payment for the items claimed. In this regard, the Panel looks for similar evidence of payment to that required in the case of claims for payment or relief to others. The Panel disallows amounts claimed that are not supported by sufficient documentary evidence to prove that payments were actually made by the claimant. The Panel then verifies whether the cost is an incremental cost to the claimant, i.e., in excess of costs normally incurred by the claimant for this type of expense. Finally, the Panel considers whether the claimant has taken appropriate steps to mitigate its loss.

147. The Panel encountered claims in this category for the costs of returning employees to Kuwait, including airfares and hotel accommodation expenses for the recruitment of new employees and the costs of cleaning-up the claimants' premises. The Panel found that many of the claims for restart costs consisted of the cost of repairing or replacing tangible assets in order to resume business. Those claims were accordingly reclassified by the Panel and reviewed as loss of tangible property claims.

148. The Panel's recommendations with respect to restart costs are set out in annex II.

I. Other losses

149. One claimant, Commercial Bank of Kuwait, seeks compensation for the costs of borrowing funds to meet its immediate commitments upon liberation, including withdrawals by customers and extraordinary operating costs to restart business. The claimant states that, due to a liquidity crisis, it was necessary to obtain a loan from Credit Lyonnais in March 1991. In order to take out this facility, it was necessary to incur a credit facility and an arrangement fee of KD 80,000 and additional interest totalling US$1,400,000 (KD 397,978). The claimant seeks compensation for these costs, which it alleges are a direct result of Iraq's invasion and occupation of Kuwait.

150. The Panel notes that the claimant provided evidence to show that the additional interest incurred, representing 0.25 per cent above the London Interbank Offered Rate ("LIBOR"), was an incremental cost incurred as a direct result of Iraq's invasion of Kuwait. In particular, the claimant provided evidence to show that prior to Iraq's invasion of Kuwait, it was able to borrow at or close to LIBOR. The Panel accepts the claimant's evidence that the additional 0.25 per cent above LIBOR was to offset the extra risk in lending to a Kuwaiti bank immediately following Iraq's invasion and occupation of Kuwait. The Panel finds that the claimant has incurred incremental costs that are a direct result of Iraq's invasion and occupation of Kuwait and recommends compensation in the amount claimed.

151. Another claimant, the National Bank of Kuwait, seeks compensation for amounts paid by way of a sale and repurchase fee. The claim relates to a GBP 15 million loan, of which GBP 10 million was sub-participated to the Republic Bank of New York on 2 October 1990. The loan itself was repayable on 12 August 1991. If the loan was not repaid by the borrower on that date, the claimant was liable to reacquire the loan at a cost of GBP 10,950,000. The borrower did not settle the loan and the claimant became liable to repurchase the loan from Republic Bank of New York. The claim is for the amount of the repurchase fee, i.e., GBP 950,000. The Panel finds that while the sub-participation of the loan itself may have been due to Iraq's invasion of Kuwait, there is no evidence to show that non-payment of the loan by the borrower, which had the effect of triggering the claimant's liability to repurchase the loan and so incur the fee in the amount claimed, was a direct result of Iraq's invasion and occupation of Kuwait. In the circumstances, the Panel recommends that no compensation be awarded.

152. The National Bank of Kuwait also seeks compensation for penalties incurred when it arranged to terminate its participation in the provision of syndicated loan facilities. The claimant alleges that, due to the interruption of its business, it was unable to fund its commitments to the syndicate. The Panel finds that the cost incurred in the termination of

the facility is an incremental cost to the claimant directly resulting from Iraq's invasion and occupation of Kuwait. The Panel recommends that compensation be awarded for the amount claimed.

153. Finally, the National Bank of Kuwait seeks compensation for redundancy payments made to nine members of staff in its French branch office, whose employment contracts were terminated due to a significant loss in the claimant's business as a result of Iraq's invasion and occupation of Kuwait. In resolving this claim, the Panel considered the "Report and recommendations made by the Panel of Commissioners concerning part one of the first instalment of individual claims for damages above US$100,000 (category 'D' claims)" (S/AC.26/1998/1), wherein the "D" Panel considered whether claimants working in third countries (e.g., employees of overseas branch offices of Kuwaiti or Iraqi companies) could be considered to have suffered a direct employment-related loss as a result of Iraq's invasion and occupation of Kuwait. The "D" Panel found that if an employment-related loss is shown to be "direct", it is compensable, regardless of the location of the loss.

154. The Panel also considered the "Report and recommendations made by the Panel of Commissioners concerning the seventh instalment of 'C' claims" (S/AC.26/1999/11), wherein the "C" Panel considered the situation of 27 claimants seeking compensation for salary losses, all former employees of a London-based branch of an Iraqi state-owned bank, who were made redundant as a result of the cessation of the bank's operations following Iraq's invasion of Kuwait. The "C" Panel took into account that the claimants had made specific showings, substantiated by appropriate evidence, that (a) their claims arose out of an economic activity having a direct relationship with Iraq, and (b) their employment was directly affected by Iraq's invasion and occupation of Kuwait. The "C" Panel found the claims to be generally compensable, although it found that those claims for losses after 1991 were too remote and did not meet direct causal requirements as the "C" Panel generally interpreted them.

155. The Panel adopts the "D" Panel's finding that, if an employment-related loss is shown to be "direct", it is compensable, regardless of the location of the loss, and finds that the claim of National Bank of Kuwait for compensation for redundancy payments is compensable as a direct loss arising out of Iraq's invasion and occupation of Kuwait. The Panel finds the claimant has demonstrated that its French branch office was directly affected by Iraq's invasion and occupation of Kuwait and that the redundancy payments represent an incremental expense, i.e., the payments are above and beyond the costs that the claimant would normally incur for this type of expense.

156. The Commercial Bank of Kuwait seeks compensation for costs incurred in connection with the closure of two of its branch offices in the United States of America. The claimant provided evidence to demonstrate that the economic activities of the branch offices were disrupted as a direct result of Iraq's invasion and occupation of Kuwait, and that the claimant could no

longer sustain the operational costs of these offices. The Panel finds that such losses are compensable in principle, but recommends that the claim be adjusted for any "risk of overstatement" that arises as a result of the fact that the long-term commercial viability of the offices had not been fully established, the offices having been opened in September and October 1989, respectively.

157. Al Ahli Bank seeks compensation for amounts paid by way of compensation for termination of a contract of employment and associated legal costs, when one of its non-Kuwaiti employees took legal proceedings against the claimant for termination of his contract of employment. The claimant settled the legal proceedings out of court, prior to judgment being obtained against it.

158. The Panel finds that, while the termination of the employment contract by the claimant was undoubtedly a direct result of Iraq's invasion and occupation of Kuwait, the bulk of the payment made by the claimant represents a regular (and unexceptional) salary expense that would have been incurred in the normal course of events. The Panel reiterates its views expressed in paragraph 153 of the First "E4" Report that, where a claimant seeking compensation for a salary expense has also raised a claim for loss of profits, the Panel finds that compensation for regular salary expenses relating to the period for which a loss of profits claim has been raised duplicates compensation. As regards the legal costs incurred, the Panel finds that they did not arise as a direct result of Iraq's invasion and occupation of Kuwait, but rather as a result of the claimant's own conduct in failing to pay the ex-employee his contractual entitlement on termination of his contract.

159. Kuwait Finance House has submitted a claim for loss of development costs incurred in connection with a point of sale project which was interrupted as a result of Iraq's invasion and occupation of Kuwait. The evidence filed by the claimant shows that the United States supplier of the computer hardware for the project went into liquidation during the period when the project was interrupted and the project could only be completed upon liberation through the use of other suppliers at extra expense.

160. The Panel finds that there is no evidence to show that the liquidation of the original hardware manufacturer was a direct result of Iraq's invasion and occupation of Kuwait and hence recommends that no compensation be awarded for the claim of Kuwait Finance House.

161. Several claimants, including Gulf Bank and Commercial Bank, seek compensation for rents paid in advance for their branch premises for the months during Iraq's invasion and occupation of Kuwait. The Panel reiterates the findings it made on this issue as set out in paragraph 108 of the Second "E4" Report, namely that such payments are "sunk" costs that were incurred prior to Iraq's invasion and occupation of Kuwait and that any damages suffered by claimants in this regard (e.g., profits lost due to the claimant's inability to use its premises) should be reflected in a

claim for loss of profits. The Panel applied this same approach in its analysis of other claims for pre-paid expenses such as pre-paid insurance. Accordingly, the Panel recommends no compensation for such claims.

162. The Panel's recommendations with respect to other losses is set out in annex II.

VII OTHER ISSUES

A. Applicable dates for currency exchange rate and interest

163. In relation to the applicable dates for currency exchange rate and interest, the Panel adopts the same approach used in the First "E4" Report. (See the First "E4" Report paras. 226-233.)

B. Claim preparation costs

164. The Panel has been informed by the Executive Secretary of the Commission that the Governing Council intends to resolve the issue of claim preparation costs in the future. Accordingly, the Panel makes no recommendation with respect to compensation for claim preparation costs.

VIII CORRECTION OF FIRST AND SECOND INSTALMENT CLAIMS

165. In accordance with procedures set out in article 41 of the Rules for the correction of award amounts previously reported in an instalment and approved by the Governing Council, the Panel, on the initiative of the Executive Secretary, recommends approval of corrected recommended amounts for the first and second instalment of "E4" claims as set out in annex III to this report.

IX RECOMMENDED AWARDS

166. Based on the foregoing, the awards recommended by the Panel for claimants in the third instalment of "E4" claims are set out in annex I to this report. The underlying principles behind the Panel's recommendations on claims in this instalment are summarized in annex II to this report. All sums have been rounded to the nearest Kuwaiti dinar and therefore the amounts claimed may vary from the amount stated on Form E by 1 KD.

Geneva, 20 December 1999

(Signed) Robert R. Briner
Chairman

(Signed) Alan J. Cleary
Commissioner

(Signed) Lim Tian Huat
Commissioner

[ENGLISH ONLY]

Annex I

Recommended awards for third instalment of "E4" claims

Reported by UNSEQ and UNCC claim numbers and claimant name

UNSEQ claim no.*	UNCC claim no.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00049	4003171	Kuwait Foundation for the Advancement of Sciences	8,143,174	7,516,758	172,272	596,097
E-00050	4003172	Kuwait Investment Company	18,746,412	17,537,572	2,259,796	7,819,363
E-00085	4003085	Kuwait Foreign Trading Contracting & Investment Co. S.A.K.	48,284,377	39,047,939	962,064	3,319,225
E-00109	4003155	The Industrial Bank of Kuwait K.S.C.	31,208,336	30,104,308	2,839,997	9,799,568
E-00110	4003156	Al Ahli Bank of Kuwait (K.S.C.)	63,426,089	63,399,214	3,840,521	13,289,000
E-00112	4003218	Burgan Bank S.A.K.	3,702,663	3,292,351	1,917,609	6,621,595
E-00113	4003219	The Gulf Bank K.S.C.	37,069,120	37,044,795	5,536,624	19,157,869
E-00116	4003221	Zakat House	8,233,695	8,232,545	4,366,496	15,108,983
E-00134	4003286	Commercial Bank of Kuwait, S.A.K.	32,388,612	32,388,612	11,890,912	41,085,442
E-00138	4003290	National Bank of Kuwait S.A.K.	175,202,000	175,202,000	22,389,421	77,472,045

* The UNSEQ number is the provisional claim number assigned to each claim by PAAC.

** The "Net amount claimed" is the original amount claimed less amounts claimed for claim preparation costs and interest. As set forth in paragraphs 164 and 163 of the report, the Panel has made no recommendation with regard to these items.

Annex I

Recommended awards for third instalment of "E4" claims

Reported by UNSEQ and UNCC claim numbers and claimant names

E-00147	4003299	Kuwait Real Estate Bank K.S.C.	9,729,596	9,729,596	2,157,535	7,465,519
E-00658	4003781	Kuwait Industrial Projects Co.	4,534,512	4,529,806	600,000	2,076,125
E-00786	4003901	The Public Authority of Minors Affairs	5,819,295	5,819,295	1,954,331	6,757,083
E-01152	4004260	Commercial Facilities Company	8,510,802	8,510,802	1,908,820	6,586,592
E-01167	4004275	Kuwait Finance House K.S.C.	48,826,962	48,802,127	6,644,134	22,990,083
E-01435	4004598	The Bank of Kuwait and the Middle East K.S.C.	13,803,583	12,198,321	4,096,108	14,157,801
E-01538	4004621	Jassim Al Wazzan Sons General Trading Company, W.L.L.	7,101,939	7,095,754	3,635,888	12,580,927
E-01594	4004702	Kuwait Insurance Company S.A.K.	3,023,112	3,018,507	2,434,065	8,422,370
E-01743	4004851	Coast Investment & Development Co. K.S.C.(Closed)	4,989,609	4,989,609	1,953,508	6,738,171
E-01826	4004899	Kuwait Investment Projects Company K.S.C.	5,091,073	4,488,226	630,032	2,176,015
		TOTALS	537,834,961	522,948,137	82,190,133	284,219,873

* The UNSEQ number is the provisional claim number assigned to each claim by PAAC.

** The "Net amount claimed" is the original amount claimed less amounts claimed for claim preparation costs and interest. As set forth in paragraphs 164 and 163 of the report, the Panel has made no recommendation with regard to these items.

[ENGLISH ONLY]

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Foundation for the Advancement of Sciences
UNCC claim number: 4003171
UNSEQ number: E-00049

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	149,978	100,215	Claim adjusted for depreciation. See paragraphs 97 to 113 of the report.
Payment or relief to others	74,323	72,057	Claim reclassified to payment or relief to others and loss of profits. Claim adjusted for evidentiary shortcomings. See paragraphs 117 to 112 of the report.
Loss of profits	7,292,457	0	Claim adjusted to reflect historical results. See paragraphs 123 to 135 of the report.
TOTAL	7,516,758	172,272	

Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 164 of the report.
Interest	621,416	n.a.	Governing Council's determination pending. See paragraph 163 of the report.

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Investment Company
UNCC claim number:	4003172
UNSEQ number:	E-00050

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	2,885,072	2,147,715	Claim adjusted for maintenance and to reflect revised estimates. See paragraphs 89 to 96 of the report.
Loss of tangible property	13,295	8,722	Claim adjusted to reflect actual cost incurred, for maintenance and for evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Payment or relief to others	180,095	0	Claim reclassified to payment or relief to others and loss of profits. Insufficient evidence to substantiate claim. See paragraphs 117 to 122 of the report.
Loss of profits	14,305,360	0	Claim adjusted to reflect historical results. See paragraphs 123 to 135 of the report.
Restart costs	153,750	103,359	Original other loss not categorised claim reclassified to restart costs and interest. Claim adjusted for evidentiary shortcomings. See paragraphs 146 to 148 of the report.
TOTAL	17,537,572	2,259,796	

Claim preparation costs	23,200	n.a.	Governing Council's determination pending. See paragraph 164 of the report.
Interest	1,185,640	n.a.	Governing Council's determination pending. See paragraph 163 of the report.

Annex II

Recommended awards for third instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Kuwait Foreign Trading Contracting & Investment Co. S.A.K.
UNCC claim number:	4003085
UNSEQ number:	E-00085

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	2,120,000	0	Insufficient evidence to substantiate claim. See paragraphs 82 to 88 of the report.
Loss of real property	85,761	73,974	Claim reclassified to loss of real property and income producing property. Claim adjusted for maintenance. See paragraphs 89 to 96 of the report.
Loss of income-producing property	31,453,178	0	See paragraphs 114 to 116 of the report.
Loss of profits	5,389,000	888,090	Claim adjusted to reflect historical results, to restrict the period of loss to 12 months and for evidentiary shortcomings. See paragraphs 123 to 135 of the report.
TOTAL	39,047,939	962,064	

Claim preparation costs	19,500	n.a.	Governing Council's determination pending. See paragraph 164 of the report.
Interest	9,216,938	n.a.	Governing Council's determination pending. See paragraph 163 of the report.

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	The Industrial Bank of Kuwait K.S.C.
UNCC claim number:	4003155
UNSEQ number:	E-00109

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	42,534	33,250	Claim adjusted for evidentiary shortcomings and maintenance. See paragraphs 89 to 96 of the report.
Loss of tangible property	89,747	70,775	Claim reclassified to loss of tangible property, cash and vehicles. Claim adjusted for maintenance, depreciation and evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Loss of cash	40,463	40,463	Claim awarded in full. See paragraphs 97 to 113 of the report.
Loss of vehicles	5,300	4,724	Claim adjusted to reflect M.V.V. Table values and for depreciation. See paragraphs 97 to 113 of the report.
Payment or relief to others	74,146	14,999	Claim for relocation expenses awarded in full. See paragraphs 117 to 122 of the report. Claim for salary incentives adjusted. See paragraph 118 of the report.
Loss of profits	6,562,746	2,505,473	Claim adjusted to reflect historical results and for windfall profits. See paragraphs 123 to 135 of the report.

Other loss not categorised	23,289,372	170,313	Claim reclassified to other loss not categorised, loss of profits and interest. For overseas operations see paragraphs 75 to 77 of the report. For foreign exchange losses see paragraphs 32 to 53 of the report. For sale of assets see paragraphs 23 to 26 of the report.
TOTAL	30,104,308	2,839,997	

Interest	1,104,028	n.a.	Governing Council's determination pending. See paragraph 163 of the report.

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al Ahli Bank of Kuwait (K.S.C.)
UNCC claim number:	4003156
UNSEQ number:	E-00110

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	164,029	100,163	Claim reclassified to loss of real property and profits. Claim adjusted for maintenance, failure to repair/replace and for evidentiary shortcomings. See paragraphs 89 to 96 of the report.
Loss of tangible property	113,740	100,744	Claim reclassified to loss of tangible property, stock, cash, vehicles, bad debts and other loss not categorised. Claim adjusted for depreciation and maintenance. See paragraphs 97 to 113 of the report.
Loss of stock	9,229	9,229	Claim awarded in full. See paragraphs 97 to 113 of the report.
Loss of cash	342,022	334,782	Claim adjusted to reflect amount supported by the evidence. See paragraphs 97 to 113 of the report.
Loss of vehicles	4,000	4,000	Claim awarded in full. See paragraphs 97 to 113 of the report.
Payment or relief to others	152,759	6,000	Claim adjusted. See paragraphs 117 to 122 of the report.
Loss of profits	4,178,832	2,104,219	Claim adjusted to reflect historical results and for windfall profits. See paragraphs 123 to 135 of the report.
Bad debts	11,212,567	1,032,947	Original contracts claim reclassified to bad debts and other loss not categorised. For balances held in Iraq see paragraphs 71 to 74 of the report. For loans to Rafidain Bank, see paragraphs 54 to 70 of the report. Claim for loans to stateless martyrs awarded in full. Claim for loans to expatriates adjusted for evidentiary shortcomings. See paragraphs 136 to 145 of the report. For claim for letter of credit transaction, see paragraphs 139 to 141 of the report.

Restart costs	196,667	136,878	Claim adjusted for evidentiary shortcomings. See paragraphs 146 to 148 of the report.
Other loss not categorised	47,025,369	11,559	Claim reclassified to payment or relief to others, profits, restart costs and other loss not categorised. For claim for sale of assets see paragraphs 23 to 26 of the report. For claim for foreign exchange loss see paragraphs 32 to 53 of the report. For claim for overseas operations see paragraphs 75 to 77 of the report. For claim for ex-patriate severance costs see paragraph 157 to 158 of the report. For claim for cancelled bank notes see paragraphs 27 to 31 of the report.
TOTAL	63,399,214	3,840,521	

Claim preparation costs	26,875	n.a.	Governing Council's determination pending. See paragraph 164 of the report.

Annex II
Recommended awards for third instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Burgan Bank S.A.K.
UNCC claim number: 4003218
UNSEQ number: E-00112

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	2,456	2,456	Claim reclassified to loss of contracts and bad debt. Claim awarded in full. See paragraphs 78 to 80 of the report.
Loss of real property	168,517	76,002	Claim adjusted for evidentiary shortcomings, maintenance and failure to repair/replace. See paragraphs 89 to 96 of the report.
Loss of tangible property	214,690	75,729	Claim reclassified to loss of tangible property, stock, cash, vehicles, restart costs and other loss not categorised. Claim adjusted for evidentiary shortcomings, failure to repair/replace and depreciation. See paragraphs 97 to 113 of the report.
Loss of stock	196,917	115,196	Claim adjusted for obsolescence and evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Loss of cash	86,724	2,601	Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Loss of vehicles	13,546	11,079	Claim adjusted to reflect M.V.V. Table values. See paragraphs 97 to 113 of the report.
Payment or relief to others	53,502	19,200	Claim reclassified to payment or relief to others, loss of profits and restart costs. Insufficient evidence to substantiate POW compensation claim. Airfare and accomodation claims awarded in full. See paragraphs 117 to 122 of the report.
Loss of profits	1,580,812	1,580,812	Claim awarded in full. See paragraphs 123 to 135 of the report.
Bad debts	279,273	0	Insufficient evidence to substantiate claim. See paragraphs 136 to 145 of the report.

Other loss not categorised	695,914	34,534	For cancelled banknotes see paragraphs 27 to 31 of the report. For foreign office costs see paragraphs 75 to 77 of the report. Insufficient evidence to substantiate claims for consignment lost.
TOTAL	3,292,351	1,917,609	

Claim preparation costs	16,000	n.a.	Governing Council's determination pending. See paragraph 164 of the report.
Interest	394,312	n.a.	Governing Council's determination pending. See paragraph 163 of the report.

Annex II
Recommended awards for third instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	The Gulf Bank K.S.C.
UNCC claim number:	4003219
UNSEQ number:	E-00113

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	69,550	69,550	Claim awarded in full. See paragraphs 78 to 80 of the report.
Loss of real property	264,979	100,623	Claim adjusted for evidentiary shortcomings and maintenance. See paragraphs 89 to 96 of the report.
Loss of tangible property	432,339	184,456	Claim adjusted for depreciation. See paragraphs 97 to 113 of the report.
Loss of cash	1,620,933	1,496,341	Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Payment or relief to others	278,302	0	Claim reclassified to payment or relief to others and loss of profits. For salary incentives see paragraphs 117 to 122 of the report.
Loss of profits	8,036,038	2,427,469	Claim adjusted to reflect historical results and for windfall profits. See paragraphs 123 to 135 of the report.
Bad debts	1,365,203	0	Original loss of contracts claim reclassifed to bad debts. Insufficient evidence to substantiate claim. See paragraphs 136 to 145 of the report.
Restart costs	538,744	442,892	Claim adjusted for evidentiary shortcomings. See paragraphs 146 to 148 of the report.
Other loss not categorised	24,438,707	815,293	Claim reclassified to loss of contracts, cash, profits, claim preparation, restart costs and other loss not categorised. For sale of assets see paragraphs 23 to 26 of the report. For overseas operations see paragraphs 75 to 77 of the report. For pre-paid expenses see paragraph 161 of the report. For stolen travellers cheques see paragraph 97 to 113 of the report. For cancelled banknotes see paragraphs 27 to 31 of the

			report.
TOTAL	37,044,795	5,536,624	

Claim preparation costs	24,325	n.a.	Governing Council's determination pending. See paragraph 164 of the report.

Annex II
Recommended awards for third instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Zakat House
UNCC claim number:	4003221
UNSEQ number:	E-00116

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	148,878	119,102	Claim adjusted for maintenance. See paragraphs 89 to 96 of the report.
Loss of tangible property	28,772	21,076	Claim reclassified to loss of tangible property, vehicles and other loss not categorised. Claim adjusted for depreciation and failure to repair/replace. See paragraphs 97 to 113 of the report.
Loss of vehicles	10,090	8,916	Claim adjusted to reflect M.V.V. Table values. See paragraphs 97 to 113 of the report.
Payment or relief to others	1,700	0	Insufficient evidence to substantiate claim. See paragraphs 117 to 122 of the report.
Loss of profits	8,043,105	4,217,402	Claim adjusted to reflect level of historical donations and income. See paragraphs 123 to 135 of the report.
TOTAL	8,232,545	4,366,496	

Claim preparation costs	1,150	n.a.	Governing Council's determination pending. See paragraph 164 of the report.

Annex II

Recommended awards for third instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Commercial Bank of Kuwait, S.A.K.
UNCC claim number: 4003286
UNSEQ number: E-00134

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	65,158	65,158	Claim reclassified to loss of contracts, profits, bad debts and other loss not categorised. Claim awarded in full. See paragraphs 78 to 80 of the report.
Loss of real property	428,312	153,727	Claim reclassified to loss of real property and other loss not categorised. Claim adjusted for evidentiary shortcomings, maintenance and depreciation. See paragraphs 89 to 96 of the report.
Loss of tangible property	94,440	94,440	Claim reclassified to loss of real property, tangible property, cash and other loss not categorised. Claim awarded in full. See paragraphs 97 to 113 of the report.
Loss of cash	2,610,669	2,605,732	Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Payment or relief to others	322,797	117,149	Claim reclassified to payment or relief to others, loss of profits and restart costs. Claim adjusted for evidentiary shortcomings. For salary incentives, see paragraphs 117 to 122 of the report.
Loss of profits	10,957,359	5,446,000	Claim adjusted to reflect historical results. See paragraphs 123 to 135 of the report.
Bad debts	7,447,496	2,726,503	Consumer loans claim adjusted for evidentiary shortcomings. Insufficient evidence to substantiate commercial debt claim. See paragraphs 136 to 145 of the report.
Restart costs	39,030	14,225	Claim adjusted for evidentiary shortcomings. See paragraphs 146 to 148 of the report.

Other loss not categorised	10,423,351	667,978	Claim adjusted. For sale of assets see paragraphs 23 to 26 of the report. For pre-paid rent see paragraph 161 of the report. For loss resulting from borrowing funds see paragraphs 149 to 150 of the report. For cancelled banknotes see paragraphs 27 to 31 of the report. For closure costs of overseas operations see paragraph 156 of the report.
TOTAL	32,388,612	11,890,912	

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	National Bank of Kuwait S.A.K.
UNCC claim number:	4003290
UNSEQ number:	E-00138

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	9,000	9,000	Claim reclassified to loss of tangible property, cash and other loss not categorised. Claim awarded in full. See paragraphs 97 to 113 of the report.
Loss of cash	5,257,421	5,257,421	Claim awarded in full. See paragraphs 97 to 113 of the report.
Loss of vehicles	4,000	0	See paragraphs 97 to 113 of the report.
Payment or relief to others	132,000	132,000	Claim awarded in full. See paragraphs 117 to 122 of the report.
Loss of profits	81,410,000	7,428,000	Claim adjusted to reflect historical results and interest received. See paragraphs 123 to 135 of the report.
Bad debts	2,618,000	0	For loans to Rafidain Bank see paragraphs 54 to 70 of the report.
Restart costs	2,031,000	283,000	Claim adjusted for evidentiary shortcomings. See paragraphs 146 to 148 of the report.

Other loss not categorised	83,740,579	9,280,000	Original loss of contracts claim reclassified to other loss not categorised. Other loss not categorised claim reclassified to loss of cash, vehicles, profits, bad debts, restart costs and other loss not categorised. For foreign exchange losses see paragraphs 32 to 53 of the claim. For sale of assets see paragraphs 23 to 26 of the report. For sale and repurchase fee see paragraph 151 of the report. For penalty on repayment of loans and termination of facility claims awarded in full. Insufficient evidence to support claims for discount on loan sales and foreign exchange compensation. For cancelled banknotes see paragraphs 27 to 31 of the report.
TOTAL	175,202,000	22,389,421	

Annex II

Recommended awards for third instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Kuwait Real Estate Bank K.S.C.
UNCC claim number:	4003299
UNSEQ number:	E-00147

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	41,495	33,196	Claim adjusted for maintenance. See paragraphs 89 to 96 of the report.
Loss of cash	23,134	23,134	Claim awarded in full. See paragraphs 97 to 113 of the report.
Payment or relief to others	227,788	227,788	Claim reclassified to payment or relief to others and loss of profits. Claim awarded in full. See paragraphs 117 to 122 of the report.
Loss of profits	1,773,623	1,773,623	Original loss of contracts claim reclassified to loss of profits. Original loss of business transaction claim reclassified to loss of profits and other loss not categorised. Claim awarded in full. See paragraphs 123 to 135 of the report.
Bad debts	1,741,505	0	Insufficient evidence to substantiate claim. See paragraphs 54 to 70 of the report.
Restart costs	50,435	50,435	Claim awarded in full. See paragraphs 146 to 148 of the report.
Other loss not categorised	5,871,616	49,359	For foreign exchange losses see paragraphs 32 to 53 of the report. For cancelled banknotes see paragraphs 27 to 31 of the report. For foreign office expenses see paragraphs 75 to 77 of the report. For sale of assets see paragraphs 23 to 26 of the report.
TOTAL	9,729,596	2,157,535	

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Industrial Projects Co.
UNCC claim number:	4003781
UNSEQ number:	E-00658

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	4,529,806	600,000	Original income producing property claim reclassified to loss of tangible property. Claim adjusted to reflect Net Book Value, to reflect write-off in post-liberation accounts, for depreciation and proceeds for sale of assets. See paragraphs 97 to 113 of the report.
TOTAL	4,529,806	600,000	

Claim preparation costs	4,706	n.a.	Governing Council's determination pending. See paragraph 164 of the report.

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: The Public Authority of Minors Affairs
UNCC claim number: 4003901
UNSEQ number: E-00786

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	366,514	253,464	Claim reclassified to loss of real property, and profits. Claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 89 to 96 of the report.
Loss of tangible property	316,335	221,434	Claim adjusted for depreciation and failure to repair/replace. See paragraphs 97 to 113 of the report.
Payment or relief to others	10,500	0	Original payment or relief to others claim reclassified to loss of profits. See paragraphs 117 to 122 of the report.
Loss of profits	4,892,134	1,479,433	Claim adjusted to reflect historical results. See paragraphs 123 to 135 of the report.
Restart costs	39,843	0	Insufficient evidence to substantiate claim. See paragraphs 146 to 148 of the report.
Other loss not categorised	193,969	0	Claim reclassified to payment or relief to others, profits, restart costs and other loss not categorised. For pre-paid rent see paragraph 161 of the report.
TOTAL	5,819,295	1,954,331	

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Commercial Facilities Company
UNCC claim number: 4004260
UNSEQ number: E-01152

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	4,195	2,842	Claim adjusted for maintenance. See paragraphs 89 to 96 of the report.
Loss of tangible property	7,275	7,275	Claim reclassified to loss of real property, tangible property and cash. Claim awarded in full. See paragraphs 97 to 113 of the report.
Loss of cash	159,000	0	Claim adjusted. See paragraphs 105 to 109 of the report.
Loss of profits	5,032,000	1,674,651	Claim adjusted to reflect historical results and for windfall profits. See paragraphs 123 to 135 of the report.
Bad debts	3,308,332	224,052	Original loss of contracts claim reclassified to bad debts. Claim adjusted for evidentiary shortcomings. See paragraphs 136 to 145 of the report.
TOTAL	8,510,802	1,908,820	

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Finance House K.S.C.
UNCC claim number:	4004275
UNSEQ number:	E-01167

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	1,951,872	1,268,126	Claim adjusted for maintenance, variations and evidentiary shortcomings. See paragraphs 89 to 96 of the report.
Loss of tangible property	474,134	372,656	Claim reclassified to loss of tangible property, stock, cash, vehicles, income-producing property, restart costs and other loss not categorised. Claim adjusted for maintenance, depreciation, evidentiary shortcomings and failure to repair/replace. See paragraphs 97 to 113 of the report.
Loss of stock	4,384,279	2,786,160	Insufficient evidence to substantiate goods in transit claim. Stock claim adjusted for evidentiary shortcomings and obsolescence. See paragraphs 97 to 113 of the report.
Loss of cash	1,645,428	1,607,749	Insufficient evidence to substantiate claim for cash held by non banking sector. Cash stolen from branches and co-operative stores' cash awarded in full. See paragraphs 97 to 113 of the report.
Loss of vehicles	1,832	0	Insufficient evidence to substantiate claim. See paragraphs 97 to 113 of the report.
Payment or relief to others	228,997	0	Original restart costs reclassified to payment or relief to others. Insufficient evidence to substantiate claim. See paragraphs 117 to 122 of the report.
Loss of profits	37,490,853	0	Original contracts and payment or relief to others claims reclassified to loss of profits. See paragraph 132 of the report.
Bad debts	949,562	0	Insufficient evidence to substantiate claim. See paragraphs 136 to 145 of the report.
Restart costs	291,833	291,833	Claim awarded in full. See paragraphs 146 to 148 of the

			report.
Other loss not categorised	1,383,337	317,610	Claim reclassified to loss of tangible property, profits, restart costs and other loss not categorised. For cancelled banknotes see paragraphs 27 to 31 of the report. For foreign currency contract see paragraphs 32 to 53 of the report. For losses in connection with POS project see paragraphs 159 to 160 of the report.
TOTAL	48,802,127	6,644,134	

Claim preparation costs	24,835	n.a.	Governing Council's determination pending. See paragraph 164 of the report.

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: The Bank of Kuwait and the Middle East K.S.C.
UNCC claim number: 4004598
UNSEQ number: E-01435

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	644,021	426,268	Original loss of contracts claim reclassified to loss of real property, profits and restart costs. Original real property claim reclassified to loss of real property, tangible property, profits and restart costs. Claim adjusted for maintenance and evidentiary shortcomings. See paragraphs 89 to 96 of the report.
Loss of tangible property	587,927	254,900	Claim reclassified to loss of tangible property, stock, cash and other loss not categorised. Claim adjusted for maintenance, depreciation, failure to repair/replace and evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Loss of stock	75,000	20,625	Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Loss of cash	941,340	933,234	Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Payment or relief to others	932,009	792,208	Claim reclassified to payment or relief to others and loss of profits. Claim adjusted for evidentiary shortcomings. See paragraphs 117 to 122 of the report.
Loss of profits	1,424,382	1,424,382	Claim awarded in full. See paragraphs 123 to 135 of the report.
Restart costs	909,705	244,491	Claim adjusted for evidentiary shortcomings. See paragraphs 146 to 148 of the report.
Other loss not categorised	6,683,937	0	Insufficient evidence and causation to substantiate claim for inexperienced tellers. For cancelled banknotes see paragraphs 27 to 31 of the report. For sale of assets see paragraphs 23 to 26 of the report.
TOTAL	12,198,321	4,096,108	

Claim preparation costs	49,900	n.a.	Governing Council's determination pending. See paragraph 164 of the report.
Interest	1,555,362	n.a.	Governing Council's determination pending. See paragraph 163 of the report.

Annex II
Recommended awards for third instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Jassim Al Wazzan Sons General Trading Company W.L.L.
UNCC claim number: 4004621
UNSEQ number: E-01538

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	674,579	539,859	Claim reclassified to loss of real property and tangible property. Claim adjusted for maintenance, depreciation and evidentiary shortcomings. See paragraphs 89 to 96 of the report.
Loss of tangible property	393,747	133,451	Claim reclassified to loss of tangible property, stock, vehicles and cash. Claim adjusted for depreciation, for maintenance and evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Loss of stock	3,864,028	2,277,048	Claim adjusted for obsolescence, evidentiary shortcomings and stock build-up. See paragraphs 97 to 113 of the report.
Loss of cash	6,183	2,391	Claim adjusted for evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Loss of vehicles	72,837	37,600	Claim adjusted to reflect M.V.V. Table values and for evidentiary shortcomings. See paragraphs 97 to 113 of the report.
Loss of profits	757,825	353,352	Claim adjusted to reflect historical results and for windfall profits. See paragraphs 123 to 135 of the report.
Bad debts	703,025	0	Insufficient evidence to substantiate claim. See paragraphs 136 to 145 of the report.
Restart costs	322,301	32,187	Claim reclassified to restart costs and other loss not categorised. Claim adjusted for evidentiary shortcomings. See paragraphs 146 to 148 of the report.

Other loss not categorised	301,229	260,000	Claim for cancelled banknotes awarded in full. See paragraphs 27 to 31 of the report. Insufficient evidence to substantiate claim for key money. For claim for pre-paid rent see paragraph 161 of the report.
TOTAL	7,095,754	3,635,888	

Claim preparation costs	6,185	n.a.	Governing Council's determination pending. See paragraph 164 of the report.

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Insurance Company S.A.K.
UNCC claim number: 4004702
UNSEQ number: E-01594

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	0	0	See paragraphs 82 to 88 of the report.
Loss of tangible property	33,220	33,220	Claim awarded in full. See paragraphs 97 to 113 of the report.
Payment or relief to others	507,839	507,839	Claim awarded in full. See paragraphs 117 to 122 of the report.
Loss of profits	1,885,000	1,885,000	Claim awarded in full. See paragraphs 123 to 135 of the report.
Bad debts	254,546	0	Insufficient evidence to substantiate claim. See paragraphs 136 to 145 of the report.
Restart costs	22,197	8,006	Claim adjusted for evidentiary shortcomings. See paragraphs 146 to 148 of the report.
Other loss not categorised	315,705	0	Original loss of business transaction claim reclasssified to other loss not categorised. Insufficient evidence to substantiate claim. See paragraphs 23 to 26 of the report.
TOTAL	3,018,507	2,434,065	

Claim preparation costs	4,605	n.a.	Governing Council's determination pending. See paragraph 164 of the report.

Annex II

Recommended awards for third instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Coast Investment & Development Co. K.S.C. (Closed)
UNCC claim number:	4004851
UNSEQ number:	E-01743

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	4,989,609	1,953,508	Claim adjusted to reflect historical results. See paragraphs 123 to 135 of the report.
TOTAL	4,989,609	1,953,508	

Annex II
Recommended awards for third instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Kuwait Investment Projects Company K.S.C.
UNCC claim number:	4004899
UNSEQ number:	E-01826

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	367,993	367,993	Original claim for payment or relief to others and restart costs reclassified to loss of profit. Claim awarded in full. See paragraphs 123 to 135 of the report.
Restart costs	473,878	262,039	Claim reclassified to loss of profit and restart costs. Claim adjusted to reflect amount of incremental expenses supported and for evidentiary shortcomings. For London and Bahrain expenses see paragraphs 75 to 77 of the report.
Other loss not categorised	3,646,355	0	Original loss of business transaction reclassified to other loss not categorised. For claim for sale of assets see paragraphs 23 to 26 of the report. Insufficient evidence to support claim for foreign exchange losses.
TOTAL	4,488,226	630,032	
Claim preparation costs	7,600	n.a.	Governing Council's determination pending. See paragraph 164 of the report.
Interest	595,247	n.a.	Governing Council's determination pending. See paragraph 163 of the report.

Annex III

Correction of first and second instalment claims

(i) Correction of first instalment claim

1. During the review of the fourth instalment of "E2" claims it became apparent that an "E2" claimant, Swordsman Australia (UNCC Claim Number 4000017), had raised a claim for loss of goods in transit in respect of the same subject matter as a goods in transit claim raised by Al Bahar and Bardawil for Private Material Co. W.L.L. ("Al Bahar") in the first instalment of "E4" claims.

2. Following correspondence with the Commission on this issue, and in order to avoid a double recovery, Al Bahar has agreed that the total amount awarded to it in respect of such goods in transit claim be deducted from its total award.

3. The following table identifies the corrected claim award for the first instalment claim of Al Bahar.

Table 1. First instalment "E4" claims correction

Claimant name	UNCC claim No.	UNSEQ claim No.	Total claim award reported in annex I (US$)	Corrected total claim award (US$)
Al Bahar and Bardawil for Private Material Co. W.L.L.	4000758	E-00092	959,398	919,758

(ii) Correction of second instalment claims

1. The loss of profit portion of two awards, correctly reported in Kuwaiti dinars in annex II of the Panel's "Report and Recommendations on the Second Instalment of "E4" Claims" (S/AC.26/1999/17), was omitted from the amounts recommended in United States dollars in annex I of that report. The following table identifies the corrected total claim awards in United States dollars for the two claims in the second instalment.

Table 2. Second instalment "E4" claims corrections

Claimant name	UNCC claim No.	UNSEQ claim No.	Total claim award reported in annex I (US$)	Corrected total claim award (US$)
Dashti & Sayegh General Trading & Contracting Co	4003305	E-00168	2,343,529	2,591,970
Al-Fardous Co-Operative Society	4000788	E-00153	1,286,080	1,613,792

Annex XIII

Decision concerning the third instalment of E4 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the third instalment of "E4" claims, covering 20 claims, 1/

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report. The aggregate amount awarded, based on the recommendations contained in annex I to the report, is as follows:

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Kuwait	20	-	1,861,020,626	284,219,873

3. Decides also, pursuant to article 41 of the Rules, to approve the amounts of the corrected awards for one claim from the first instalment and two claims from the second instalment. The aggregate amounts of the

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* Previously issued as document S/AC.26/Dec.91 (2000).

[1] The text of the report appears in document S/AC.26/2000/6 (annex XII above).

corrected awards, based on the recommendations contained in annex III to the report, are as follows:

First instalment correction

Country	Previous recommended award (US$)	Corrected recommended award (US$)
Kuwait	959,398	919,758

Second instalment correction

Country	Previous recommended award (US$)	Corrected recommended award (US$)
Kuwait	3,629,609	4,205,762

4. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)),

5. Recalls that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), the Government of the State of Kuwait shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

6. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to the Government of the State of Kuwait.

Annex XIV

Report and recommendations made by the Panel of Commissioners concerning the fifth instalment of E4 claims*

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* Previously issued as document S/AC.26/2000/7.

CONTENTS

		Paragraphs	Page
	Introduction	1 - 3	570
I.	OVERVIEW OF THE FIFTH INSTALMENT CLAIMS	4 - 8	570
II.	THE PROCEEDINGS	9 - 25	571
III.	LEGAL FRAMEWORK	26	574
IV.	VERIFICATION AND VALUATION OF CLAIMS	27 - 28	574
V.	THE CLAIMS	29 - 110	574
	A. Contract	30 - 35	574
	1. Compensability	31	575
	2. Verification and valuation method	32	575
	3. Evidence submitted	33 - 35	575
	B. Real property	36 - 41	575
	1. Compensability	37 - 38	575
	2. Verification and valuation method	39	576
	3. Evidence submitted	40 - 41	576
	C. Tangible property	42 - 63	576
	1. Compensability	43	576
	2. Verification and valuation method	44 - 47	576
	(a) Tangible property	45	577
	(b) Vehicles	46	577
	(b) Stock	47	577
	3. Evidence submitted	48 - 63	577
	(a) Tangible property	48 - 50	577
	(b) Vehicles	51 - 55	578
	(c) Stock	56 - 61	579
	(d) Cash	62 - 63	580
	D. Payment or relief to others	64 - 70	580
	1. Compensability	65 - 66	580
	2. Verification and valuation method	67 - 68	580
	3. Evidence submitted	69 - 70	581
	E. Loss of profits	71 - 76	581
	1. Compensability	72	581
	2. Verification and valuation method	73	581
	3. Evidence submitted	74 - 76	581
	F. Receivables	77 - 92	582
	1. Compensability	78 - 79	582
	2. Verification and valuation method	80 - 85	582
	3. Evidence submitted	86 - 92	583
	G. Restart costs	93 - 100	585

	Paragraph	Page
H. Other losses	101 - 110	586
VI. OTHER ISSUES	111 - 112	588
A. Applicable dates for currency exchange rate and interest	111	588
B. Claim preparation costs	112	588
VII. RECOMMENDED AWARDS	113	588

Annexes

Annex I: Recommended awards for the fifth instalment of "E4" claims reported by UNSEQ and UNCC claim numbers and claimant name	590
Annex II: Recommended awards for the fifth instalment of "E4" claims reported by claimant name and category of loss	592

Introduction

1. At its thirtieth session, held on 14-16 December 1998, the Governing Council of the United Nations Compensation Commission (the "Commission") appointed Messrs. Luiz Olavo Baptista ("Chairman"), Jean Naudet, and Jianxi Wang as the second Panel of Commissioners (the "Panel") charged with reviewing category "E4" claims. The category "E4" population consists of claims submitted by Kuwaiti entities, other than oil sector and environmental claims, eligible to file claims under the Commission's "Claim Forms for Corporations and Other Entities" ("Form E").

2. The fifth instalment of 23 "E4" claims was submitted to the Panel on 13 January 1999, in accordance with article 32 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules").

3. Pursuant to article 38 of the Rules, this report contains the Panel's recommendations to the Governing Council concerning the fifth instalment claims.

I. OVERVIEW OF THE FIFTH INSTALMENT CLAIMS

4. The fifth instalment claims were selected from among the population of approximately 2,750 "E4" claims on the basis of criteria that include, inter alia, the size, volume and complexity of the claim, and the legal, factual, and valuation issues raised by the claim. Most of the fifth instalment claimants traded in vehicles or vehicle-related accessories and spare parts.

5. The fifth instalment claimants allege losses aggregating Kuwaiti dinars ("KD")372,731,813 (approximately US$1,289,729,457). The claimants also assert claims for interest aggregating KD 11,935,944 (approximately US$41,300,844) and claim preparation costs aggregating KD 216,784 (approximately US$750,118). The claims range between KD 3,082,423 and KD 145,007,854 (i.e., between approximately US$10,665,824 and US$501,757,280) in value.

6. The fifth instalment claims are classified as "unusually large or complex". In other words, the amount claimed by each claimant is equal to or more than KD 3 million (approximately US$10 million), and, due to the nature of the legal and factual issues raised in the claim and the amount of documentation provided in support of the claimed loss, the Panel's verification and valuation of the claim has been completed within 360 days.

7. All of the claimants in the fifth instalment operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. In addition, some of the claimants were also doing business outside Kuwait.

8. Claimants in this instalment have sought compensation under all loss categories identified on Form E except two: loss of business transaction or course of dealing and loss of income-producing property. The two most

common losses asserted in this instalment are loss of tangible property (mainly vehicles, vehicles spare parts and accessories) and loss of earnings or profits. Fifth instalment claimants also submitted claims for uncollectible receivables, restart costs, interest, claim preparation costs and other losses.

II. THE PROCEEDINGS

9. Before the fifth instalment claims were submitted to the Panel, the secretariat undertook a complete review of these claims in accordance with the Rules. The secretariat first carried out a preliminary assessment of the claims, pursuant to article 14 of the Rules, to verify whether the claims met the formal requirements of articles 14(1) and 14(2). For example, the claims were reviewed to ascertain whether they included proof of incorporation or organization under the laws of Kuwait on the date the claim arose, and contained an affirmation by the authorized official for each claimant that the information contained in the claim is correct. The results of this formal review were entered into a centralized database maintained by the secretariat (the "Claims Database").

10. One claim presented a formal deficiency and the secretariat issued a notification to this claimant pursuant to article 15 of the Rules. The deficiency was corrected by the claimant.

11. A substantive review of the fifth instalment claims was undertaken to identify significant legal, factual and valuation issues. The results of the review, including the significant issues identified, were recorded in the Claims Database.

12. The Executive Secretary of the Commission submitted reports 24 and 25 dated 8 July 1998 and 13 October 1998, respectively to the Governing Council in accordance with article 16 of the Rules. These reports covered, inter alia, the fifth instalment of "E4" claims and presented significant legal and factual issues identified in these claims. Governments, including the Government of Iraq, submitted additional information and views in response to the Executive Secretary's article 16 reports.

13. Accordingly, at the conclusion of the (i) preliminary assessment; (ii) substantive review; and (iii) article 16 reporting, the following documents had been made available to the Panel for consideration:

(a) the claim documents submitted by the claimants;

(b) the preliminary assessment reports prepared under article 14 of the Rules;

(c) the claim summaries and reports;

(d) information and views of governments, including the Government of Iraq, received in response to the article 16 reports; and

(e) other information, such as legal briefing notes, deemed, under article 32 of the Rules, to be useful to the Panel for its work.

14. The number of claims before the Panel in this instalment and the volume and nature of evidence presented in these claims necessitated the use of expert consultants in accordance with article 36(b) of the Rules. The Panel retained the services of an accounting firm and a loss adjusting firm, selected by a competitive bidding process in accordance with applicable United Nations rules.

15. The Panel directed the expert consultants to review each claim in accordance with the verification and valuation methodology developed by the first "E4" Panel and to submit to the Panel a detailed report for each claim summarizing the expert consultants' findings. The verification and valuation methodology is discussed in the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E4' claims" (S/AC.26/1999/4) (the "First 'E4' Report"). The methodology used by the Panel in the First "E4" Report is not restated in this report. Instead, this report makes reference to the First "E4" Report. As with the First "E4" Report, the Panel's treatment of certain claims is highlighted in the body of the report.

16. Pursuant to article 34 of the Rules, specific interrogatories were transmitted to each claimant requesting additional information in order to assist the Panel in its review of the claims. All such letters were directed through the Public Authority for Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC"). The type of information required varied depending on the evidentiary shortcomings encountered for each claimant.

17. By its first procedural order dated 15 January 1999, the Panel gave notice of its intention to complete its review of the fifth instalment claims and submit its report and recommendations to the Governing Council within 360 days of 13 January 1999. The Panel's first procedural order was transmitted to the Government of Iraq and the Government of Kuwait on 15 January 1999.

18. The Panel transmitted to the Government of Iraq for its review and comment five claims that satisfied the following criteria:

(a) the total claimed value was equal to or greater than KD 30 million (approximately US$104 million); or

(b) the claim involved elements relating to contracts or dealings with Iraqi entities.

19. By its second procedural order dated 22 January 1999, the Panel directed the transmittal to the Government of Iraq of the statement of claim and other supporting documents filed by the five claimants that satisfied the above criteria from the fifth instalment. The Panel invited

the Government of Iraq to submit its response to these claims within 180 days of the date of the procedural order. Iraq's response was received on 21 July 1999 and was reviewed and considered by the Panel.

20. During the period 5-11 April 1999, at the direction of the Panel, five members of the secretariat and two expert accounting and loss adjusting consultants travelled to Kuwait to meet with seventeen of the fifth instalment claimants to obtain information for the Panel's review of these claims (the "Mission"). The delegation carried out on-site inspections of some of these claimants' premises, offices, showrooms and warehouses. During meetings with the claimants, the delegation received several of the documents that had been requested through PAAC prior to the Mission. Additional documents and explanations were also requested by the delegation during the meetings. The delegation also met with representatives of the Kuwait Chamber of Commerce and Industry to discuss commercial practices in Kuwait before and after Iraq's invasion and occupation of Kuwait.

21. An additional level of verification was performed to determine if related claimants filed duplicate claims. This review is described in paragraph 18 of the "Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of 'E4' claims" (S/AC.26/1999/18) (the "Fourth 'E4' Report").

22. With regard to copies of the claimants' audited financial statements or accounts ("accounts"), in addition to the specific information requested pursuant to article 34 of the Rules (see para. 16, supra), PAAC was notified of all claimants that had not provided accounts for the three fiscal years prior to and following Iraq's invasion and occupation of Kuwait. This notification was sent to PAAC on 20 April 1998. The second notice was sent on 20 November 1998, listing claimants that had not provided any supplemental accounts. The third notice pertaining to fifth instalment claims was sent on 21 January 1999 with regard to claimants that had not submitted accounts for 1987.

23. Further, general requests for additional information were made concerning the loss of vehicles, uncollectible receivables, loss of contract, cancelled Kuwaiti dinar notes, and the cost of returning employees to Kuwait. These requests were described in paragraphs 20-24 respectively of the Fourth "E4" Report.

24. With respect to claims for the loss of goods in transit, in addition to the specific information requested pursuant to article 34 of the Rules (see para. 16, supra), the "E4" claimants were asked on 24 June 1999 to provide proof of payment for the goods shipped, in addition to Kuwaiti Port Authority documents demonstrating that the goods were actually received in Kuwait. (See para. 61, infra.) On 2 August 1999, PAAC replied requesting the identification of the specific claimants from whom this information was currently needed. On 13 August 1999 PAAC was provided with the names of claimants who were required to provide such information.

25. Based on its review of the documents submitted, including documents and clarifications received in response to the second procedural order, the Panel concluded that the issues presented by the fifth instalment claims had been adequately developed and that oral proceedings to further explore such issues were not required.

III. LEGAL FRAMEWORK

26. The legal framework for the evaluation of the claims in this instalment is the same as that used in earlier "E4" instalments. The Second and Fourth "E4" Reports discuss additional issues that were encountered in those instalments of "E4" claims. These various elements of the Panel's review are not restated in this report. Instead, this report makes reference to sections in the previous "E4" reports where such issues have been addressed.

IV. VERIFICATION AND VALUATION OF CLAIMS

27. In the limited instances where the Panel encountered new issues not addressed in prior "E4" reports, the Panel developed methodologies for verifying and valuing the losses. These new issues are highlighted in the text of this report. The Panel's specific recommendations on the losses asserted in this instalment and the reasons therefor are set out in the annexes to this report.

28. Before discussing the Panel's specific recommendations for compensating the fifth instalment claims, it is important to restate that the Panel's approach to the verification and valuation of these claims balances the claimant's inability to always provide the best evidence against the "risk of overstatement" associated with such evidentiary shortcomings. The term "risk of overstatement", as defined at paragraph 34 of the First "E4" Report, is used to refer to cases in which claims contain evidentiary shortcomings that prevent their precise quantification and therefore present a risk that they might be overstated.

V. THE CLAIMS

29. The Panel reviewed the fifth instalment claims according to the nature and type of loss identified. Accordingly, the Panel's recommendations have been set out below by loss type. Reclassified losses have been dealt with in the section pertaining to the loss category into which the Panel reclassified the losses.

A. Contract

30. Four claimants in this instalment asserted claims aggregating KD 1,142,581 (approximately US$3,953,567) for loss of contract.

1. Compensability

31. The Panel determines whether a contract claim is compensable by evaluating the loss under the appropriate review methodology. Thus, amounts billed under a contract but not received are reviewed as receivables. Profits that would have accrued from goods or services to be provided over the remainder of a terminated or repudiated contract are reviewed as loss of profits. (See the First "E4" Report, para. 66.)

2. Verification and valuation method

32. The verification and valuation method used by the Panel is the same as that used in the first instalment. (See the First "E4" Report, paras. 77-84.)

3. Evidence submitted

33. On 22 October 1998, additional information was requested from the claimants concerning their contract losses. The claimants with loss of contract claims were asked to provide evidence that the contract had been repudiated or cancelled unless they had already provided this information. The claimants were instructed that the required declaration should include the specific circumstances of such repudiation or cancellation including, but not limited to, the date that such event occurred. Claimants that were unable to provide this evidence were asked to explain why.

34. Arabian Motors Group Co. seeks compensation for the cost of repairs performed on clients' vehicles that were not completed before the invasion. The claimant provided a general ledger page reflecting the value of the work in progress for the claimed amount. However, the claimant failed to provide work orders or sufficient evidence of contractual agreements. As a result, the Panel recommends disallowing the claim because this evidence was not provided.

35. The Panel's recommendations with respect to contract losses are set out in annex II.

B. Real property

36. Sixteen claimants in this instalment asserted claims aggregating KD 9,597,421 (approximately US$33,209,069) for loss of real property.

1. Compensability

37. These claims relate to damage to various freehold and leasehold premises in Kuwait. The compensability standards are the same as those used in the first instalment. (See the First "E4" Report, paras. 89-91.) As was the case in the first instalment of "E4" claims, most claimants established the fact and nature of damage to their buildings and facilities

by providing copies of witness statements, survey reports and photographs. As in the first instalment of "E4" claims, the nature of damage alleged and the location of all the properties in Kuwait established that the damage was a result of military operations and the breakdown of civil order in Kuwait during Iraq's invasion and occupation of Kuwait. Accordingly, the direct causal link between the losses alleged and Iraq's invasion and occupation of Kuwait is sufficiently well established in the fifth instalment claims for loss of real property.

38. All claims were based on the actual costs incurred in repairing the properties or on estimates of such costs.

2. Verification and valuation method

39. The verification and valuation method used by the Panel is the same as that used in the first instalment. (See the First "E4" Report, paras. 92-101.)

3. Evidence submitted

40. Most claimants submitted copies of title deeds or leases to establish their interest in the affected properties. Where leases were submitted, additional checks were performed to ensure that no duplicate claims had been filed by owners of the leased properties. The Panel also referred to the claimants' audited accounts to corroborate the claimants' interest in the affected properties.

41. The Panel's recommendations with respect to real property losses are set out in annex II.

C. Tangible property

42. Tangible property losses are raised by all of the claimants in the fifth instalment aggregating KD 122,949,007 (approximately US$425,429,090). The claims for loss of tangible property relate mainly to loss of vehicles, spare parts, furniture, fixtures, machinery and equipment. Other claims in this category relate to loss of cash.

1. Compensability

43. With regard to the compensability of claims for tangible property losses, the Panel applied the same approach taken in the First "E4" Report. (See the First "E4" Report, paras. 108-109.)

2. Verification and valuation method

44. As noted in the First "E4" Report, the verification and valuation method adopted varies for vehicles, stock, cash, and other tangible property losses. The Panel followed the same verification and valuation

method as used in the First "E4" Report. (See the First "E4" Report, paras. 110-135.)

(a) Tangible property

45. This category of loss relates to furniture, fixtures, machines, equipment, and other tangible assets owned by the claimants prior to Iraq's invasion and occupation of Kuwait.

(b) Loss of vehicles

46. This category of loss relates to the company vehicles used by the claimants in the operation of their business.

(c) Loss of stock

47. This category of loss mainly relates to new and used vehicles for sale and vehicle spare parts and accessories that were kept in the claimants' showrooms, garages and warehouses prior to Iraq's invasion and occupation of Kuwait. Loss of stock claims also include goods in transit, i.e., goods that arrived in Kuwait shortly before the invasion or were diverted from Kuwait and were lost before the claimant could take delivery of the goods from the relevant Kuwaiti air or sea ports.

3. Evidence submitted

(a) Tangible property

48. Most claimants in this instalment submitted audited accounts to establish the existence, ownership and value of the tangible assets damaged or lost as a direct result of Iraq's invasion and occupation of Kuwait. In establishing the fact and cause of loss, claimants relied on assertions in their statement of claim and witness statements. These assertions were generally corroborated by additional documents, such as photographs and independent survey reports. The Panel also relied on the claimants' post-liberation audited accounts. These accounts showed the losses of tangible property as extraordinary losses incurred as a direct result of Iraq's invasion and occupation of Kuwait, and as such provided additional independent verification of the loss.

49. Many claimants sought to value their losses using estimated repair or replacement costs. As in the case of similar real property claims, such claims were found to present a "risk of overstatement" if the claimant did not provide sufficient evidence explaining why it had not repaired or replaced the assets concerned. In some cases the Panel was able to rely on the claimant's post-liberation accounts to determine whether the claimant had subsequently repaired or replaced the affected assets.

50. One claimant, Mohamed Naser Al-Sayer & Sons Est., seeks compensation for the loss of Persian rugs it received from one of its debtors. The

claimant provided an independent estimate of the value of the rugs. During the Mission, the claimant provided its auditors' working papers for the debt indicating that the carpets had been exchanged. The Panel recommends an award for the claim, which has been adjusted for evidentiary shortcomings concerning the valuation of the rugs.

(b) Vehicles

51. Virtually all claimants were able to establish their ownership of lost company vehicles by providing copies of the deregistration certificates issued by the Government of Kuwait. The fact of loss was generally established by the deregistration certificates together with additional substantiating documents such as witness statements describing the circumstances of the loss and post-liberation audited accounts recording the loss of vehicles as an extraordinary item.

52. In some instances, the vehicles used by a claimant were not registered in its name; rather, they were registered in the name of the claimant's owners or employees. In such cases, the Panel verified whether the individual named in the deregistration certificate was related to the claimant. Second, the Panel confirmed that no duplicate claim was made by that individual with the Commission for the same vehicle. If no duplicate claim was made, the Panel would treat the vehicles as belonging to the claimant and review the claim accordingly.

53. Where the claimants did not provide deregistration certificates or where the name of the owner in the deregistration certificate could not be linked to the claimant or its owners, directors or employees, the Panel recommends disallowing the claim, unless the claimant provides a reasonable explanation for not providing deregistration certificates (for example, see para. 60, infra.)

54. The asserted values of the vehicles lost were separately verified by the Panel against vehicle values contained in the Motor Vehicle Valuation Table ("M.V.V. Table"), as defined at paragraph 135 of the First "E4" Report, or, for vehicles not listed in the M.V.V. Table, against other third-party estimates. For example, adjustments based on third-party estimates were applied in part to the claim by Kuwait Bulgarian Trading Co. The Panel tested third-party estimates by examining alternative methods of valuing the claim such as by examining the net book value and depreciated replacement cost.

55. Included in its company vehicles claim, Al-Babtain Trading & Contracting Co. seeks compensation for construction equipment that was not required to have vehicle registration certificates under Kuwaiti law. The claimant did not provide sufficient information regarding these items, including information concerning the age of this equipment. Because the Panel lacked sufficient evidence to evaluate the loss, it recommends disallowing this portion of the company vehicles claim.

(c) Stock

56. For most of the claimants, the existence, ownership and value of stock lost was supported by copies of the claimants' audited accounts, original inventory purchase invoices and "roll-forward" calculations, as defined in paragraph 119 of the First "E4" Report.

57. Deregistration certificates were not relied on to establish the fact of ownership or loss of new vehicles held as stock. Imported vehicles in the possession of automobile dealers were not registered with the Kuwaiti Traffic Department before they were sold to customers. As a result, no deregistration certificates could be issued for these vehicles.

58. Some claimants provided further evidence that their new vehicles were not sold in Kuwait prior to the invasion by providing non-registration certificates from the Kuwaiti Traffic Department. Unlike deregistration certificates, a non-registration certificate is merely an attestation by the Kuwaiti Traffic Department that it has no record of the vehicle bearing the serial number furnished to it by the claimant. The Panel found that claimants were not obliged to provide this certificate as evidence of a new vehicle's loss. Other evidence, such as the claimants' audited accounts, original inventory purchase invoices and roll-forward calculations were deemed sufficient proof of loss.

59. Stock consisting of used vehicles held for sale was valued in the same manner as the stock of new vehicles. As the used vehicles were registered with the Kuwaiti Traffic Department, some claimants provided deregistration certificates for these vehicles. Where such information was provided, the M.V.V. Table was also consulted by the Panel to value the claim.

60. Abdulmohsen Abdulaziz Al-Babtain Co. stated that a number of deregistration certificates for its used vehicles held for sale could not be obtained since, prior to the invasion, these vehicles were neither registered in the name of the claimant, nor in the name of any party related to the claimant. During the Mission, the claimant explained that in some cases used vehicles purchased by the claimant for trade would not be registered in its name because it intended to resell them shortly afterwards. The claimant stated that, while it was the actual owner of the vehicles at the time of the loss, deregistration certificates could not be obtained because the vehicles were not registered in the claimant's name at the time of Iraq's invasion and occupation of Kuwait. The Panel finds that this is a reasonable explanation for not providing deregistration certificates and therefore recommends an award for the claim. This award has been adjusted for evidentiary shortcomings concerning the valuation of the vehicles.

61. As in the first instalment of "E4" claims, successful claims for loss of goods in transit related to goods that arrived in Kuwait shortly before the invasion or were diverted from Kuwait and were lost as a direct result

of Iraq's invasion and occupation of Kuwait before the claimant could take delivery of the goods from the relevant Kuwaiti air or sea ports. These claimants were able to establish the ownership, existence and loss of the goods by providing certificates issued by the Kuwaiti port authorities or shipping agents and proof of payment for these goods.

(d) Cash

62. As in the first instalment of "E4" claims, claimants alleging cash losses were required to substantiate their claims by providing, among other things, contemporaneous records establishing cash held on 2 August 1990, such as previous month-end cash balances, copies of daily bank deposit statements, cash-flow registers and monthly sales ledgers. None of the claimants in the fifth instalment were successful in substantiating their claims for cash losses.

63. The Panel's recommendations with respect to tangible property losses are set out in annex II.

D. Payment or relief to others

64. Six claimants in this instalment asserted claims aggregating KD 204,671 (approximately US$708,204) for payment or relief to others. These claims include payments made to employees to return to Kuwait after the end of Iraq's invasion and occupation and termination benefits paid to non-Kuwaiti employees who lost their jobs as a direct result of Iraq's invasion and occupation of Kuwait.

1. Compensability

65. The Panel followed the same approach taken in the First "E4" Report, (see paras. 153-154), with the addition of the items noted below.

66. With respect to claims relating to termination indemnities, i.e., amounts paid pursuant to an employment contract terminated during Iraq's invasion and occupation of Kuwait, the Panel followed the same approach as that used in the Fourth "E4" Report, (see paras. 61-66).

2. Verification and valuation method

67. The verification and valuation methodology adopted by the Panel for claims relating to payment or relief to others is the same as set forth at paragraphs 155-157 of the First "E4" Report.

68. With respect to claims relating to termination indemnities, the Panel followed the same approach as that in the Fourth "E4" Report (see paras. 61-66.)

3. Evidence submitted

69. Al Qurain Automotive Trading Co. submitted a claim for termination indemnity payments made to several employees whose contracts were terminated as a result of Iraq's invasion and occupation of Kuwait. During the Mission, it was noted that some of these termination indemnities were not paid to the employees. The Panel recommends an award for the claim, which has been adjusted to account for amounts claimed for which the claimant failed to provide proof of payment.

70. The Panel's recommendations with respect to payment or relief to others claims are set out in annex II.

E. Loss of profits

71. Twenty claimants in this instalment asserted claims aggregating KD 138,747,656 (approximately US$480,095,696) for loss of profits.

1. Compensability

72. The four significant legal and factual issues raised by the first instalment claims are all raised by the fifth instalment claims. These issues relate to the impact and assessment of (a) benefits received under the Government of Kuwait's post-liberation debt settlement programme, (b) windfall or exceptional profits earned by claimants in the period immediately following the liberation of Kuwait, (c) the indemnity period for loss of profits claims, and (d) claims for loss of profits selectively based on profitable lines of business. The conclusions reached by the Panel in relation to these issues are set forth in paragraphs 161-193 of the First "E4" Report. The Panel has applied these conclusions, in its consideration and recommendations, for the loss of profits claims in the fifth instalment.

2. Verification and valuation method

73. The fifth instalment claims were verified and valued by the Panel in the same manner as the first instalment claims. (See the First "E4" Report, paras. 194-202.)

3. Evidence submitted

74. As noted in the First "E4" Report, "[a] claim for loss of profits cannot be solely based on revenues lost. It must be matched with corresponding expenses". (See First "E4" Report, para. 197.) Therefore, the Panel evaluates claims for staff salaries and other expenses by reclassifying them to loss of profits.

75. Yusuf Ahmed Alghanim & Sons asserted a claim for KD 98,009,672 for loss of profits. The claimant's method of calculating its loss of profits is different from the methodology consistently applied by the E4 Panels.

The Panel decided that it would apply the same basis of evaluating the loss to this claim as it has to all claims.

76. The Panel's recommendations with respect to loss of profits are set out in annex II.

F. Receivables

77. Nineteen claimants in this instalment asserted claims aggregating KD 96,611,863 (approximately US$334,297,104) for uncollectible receivables or "bad debts". The majority of these claims are for amounts owed by businesses or individuals located in Kuwait prior to Iraq's invasion.

1. Compensability

78. As with the first instalment of "E4" claims, most claimants sought compensation for debts that remained uncollected because debtors had not returned to Kuwait after liberation. The issue raised is whether the uncollected debt had become uncollectible as a direct result of Iraq's invasion and occupation of Kuwait.

79. The Panel reiterates the "E4" Panel's determination on this issue as set out at paragraph 209 of the First "E4" Report, namely that claims for debts that have become uncollectible as a direct result of Iraq's invasion and occupation of Kuwait should demonstrate, by documentary or other appropriate evidence, the nature and amount of debt in question and the circumstances that caused the debt to become uncollectible.

2. Verification and valuation method

80. The fifth instalment claims for uncollectible receivables were verified and valued in the same manner as the first instalment claims. (See the First "E4" Report, paras. 211-215). Few claims satisfied the criteria established in the First "E4" Report. Specifically, the claimants failed to provide evidence to demonstrate that their debtors' inability to pay was a direct result of Iraq's invasion and occupation of Kuwait. This shortcoming was brought to the attention of the claimants through PAAC as described below.

81. On 24 September 1998 PAAC was requested to ask the claimants with bad debt claims (who had not already done so) to provide evidence that the debtors cannot pay their debts to the claimants because they (a) have been officially declared bankrupt, or (b) are otherwise out of business as a direct result of Iraq's invasion and occupation of Kuwait. During the Mission, claimants were also requested to provide official certificates from the concerned Kuwaiti authorities confirming that corporate debtors of the claimants were out of business as a result of Iraq's invasion and occupation of Kuwait.

82. In response, one claimant, Boodai Trading Co., provided a letter from the Kuwaiti Ministry of Commerce and Industry, dated 8 August 1999. The letter listed a number of Kuwaiti companies and stated that these companies were not registered with the Ministry of Commerce and Industry as of the date of the letter. No further explanation was provided by the Ministry about the status of these companies. According to the information in the claim file, the companies listed by the Ministry in this letter were debtors of the claimant. The Panel finds that evidence of non-registration with the Kuwaiti Ministry of Commerce and Industry in 1999 is not sufficient to indicate that the claimant's debtors went out of business as a direct result of Iraq's invasion and occupation of Kuwait.

83. Boodai Trading Co. further provided copies of court orders and judicial proceedings relating to disputes with some of its debtors. These documents concerned disputes relating to debts that were the subject of litigation prior to Iraq's invasion and occupation of Kuwait. Therefore, the Panel recommends disallowing the portion of the claim relating to these debtors.

84. Finally, Boodai Trading Co. provided evidence of unpaid invoices due from the Iraqi Embassy in Kuwait. With regard to debts owed by Iraqi entities, the Panel notes that the Governing Council has approved numerous reports by other category "E" Panels where it was determined that the Commission does not have jurisdiction over a debt or obligation that is based on work performed or services rendered prior to 2 May 1990. (See, e.g., "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E2' claims" (S/AC.26/1998/7), para. 90; and "Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of 'E3' claims" (S/AC.26/1999/14), at paras. 21-23.) Therefore, based on the evidence provided by Boodai Trading Co., the Panel recommends allowing only the unpaid portion of the amount owed by the Embassy of Iraq relating to work performed and services rendered by the claimant on or after 2 May 1990.

85. With regard to debts owed to claimants by Iraqi parties, the Panel notes that such debts are compensable in principle even if they fell due for some months following liberation. The Panel reasoned that, notwithstanding that Iraq's unlawful invasion and occupation of Kuwait ended on 2 March 1991, the economic consequences thereof did not end immediately after cessation of the hostilities. The Panel therefore considers losses that occurred thereafter may be compensable as they can still constitute a direct consequence of Iraq's unlawful invasion and occupation of Kuwait. However, the Panel considers that such period shall not run more than five months beyond the end of Iraq's invasion and occupation of Kuwait.

3. Evidence submitted

86. As discussed above, the Panel disallows claims that rely on mere assertions that uncollected debts are *ipso facto* uncollectible because the

debtors did not return to Kuwait. For claims in this instalment that the Panel recommends disallowing, there is insufficient evidence supporting the assertion that the debtors' inability to pay the debt was a direct result of Iraq's invasion and occupation of Kuwait.

87. Some claimants reduced their claim for bad debts to reflect collections from their debtors that were received after the claims were submitted. Further reductions were made to reflect compensation that was received from the Government of Kuwait under Law No. 43 of 1993 Exempting Kuwaiti Nationals from Private Vehicles Instalments ("Law 43"). Law 43 exempted Kuwaiti citizens, who were debtors and guarantors of certain vehicle loans, from repayment of instalments that fell due after 2 August 1990. Under certain conditions, the Government of Kuwait agreed to pay the lenders the value of the exempted amounts.

88. In response to a letter issued pursuant to article 34 of the Rules (see para. 16, supra), Mohamed Naser Al-Sayer & Sons Est. stated that its original claim for bad debts of KD 17,135,073 (approximately US$59,290,910) had been reduced to KD 1,885,800 (approximately US$6,525,260) due to compensation received from the Government of Kuwait under Law 43 and due to collections made from its customers. Likewise, Al Mulla International Trading & Contracting Co. reduced its original claim for bad debts from KD 20,550,148 (approximately US$71,107,779) to KD 2,265,765 (approximately US$7,840,017) for the same reasons. Although the Panel considered this information when it recommended the awards, the reductions in the amounts asserted are not reflected in annexes I and II to this report.

89. Al-Fajji Trading & Contracting Co. seeks compensation for unpaid amounts under two transportation contracts with the Government of Iraq signed in 1988; one to transport seeds from Kuwait to Basra in southern Iraq, the other to transport seeds from the port of Aqaba in Jordan to Baghdad. Under both contracts, payment to the claimant for each delivery was due in two instalments; 25 per cent after one month of the delivery, and 75 per cent after eighteen months of the delivery. The claimant provided copies of the original contracts with the Government of Iraq and schedules detailing the dates and amounts of deliveries made up to the date of the invasion. The Panel recommends allowing compensation where the goods were provided or services rendered after 2 May 1990 for the instalments that fell due from 2 August 1990 until 2 August 1991 as noted above.

90. Al Mansoor and Al Abdaly Trading & Contracting Co. seeks KD 1,800,000 (approximately US$6,228,374) relating to a letter by the Baghdad Municipality dated 26 October 1980 awarding a sewage construction contract to the claimant. Because of a dispute, the matter was in arbitration before Iraq's invasion and occupation of Kuwait. The claimant contends that Iraq's invasion and occupation interrupted the arbitration proceedings that were likely to favour the claimant. The Panel found that the fact that payment was disputed by the debtor is evidence that refusal of that debtor to pay is unrelated to Iraq's invasion and occupation of Kuwait. In

addition, there was no evidence that the claimant would have prevailed in the arbitration had the invasion not occurred. (See, e.g.,"Report and recommendations made by the Panel of Commissioners concerning the eighth instalment of 'E3' claims" (S/AC.26/1999/15), paras. 67-70.) Therefore, the Panel recommends disallowing the claim.

91. Yusuf Ahmed Alghanim & Sons submitted a claim for receivables, which included, among other items, a claim against Iraqi debtors. In accordance with paragraph 87 above, the Panel recommends allowing a portion of this claim.

92. The Panel's recommendations with respect to uncollectible receivables are set out in annex II.

G. Restart costs

93. Eight claimants in this instalment asserted claims aggregating KD 723,851 (approximately US$2,504,675) for restart costs. The amounts claimed as restart costs have been reviewed using the existing methodology. Thus, the Panel verifies whether the loss is a direct result of Iraq's invasion and occupation of Kuwait and is supported by proof of payment for the items claimed. In this regard, the Panel looks for similar evidence of payment to that required in the case of claims for payment or relief to others. The Panel disallows amounts claimed that are not supported by sufficient documentary evidence to prove that payments were actually made by the claimant. The Panel then verifies whether the cost is an incremental cost to the claimant, i.e., in excess of costs normally incurred by the claimant for this type of expense. Finally, the Panel considers whether the claimant has taken appropriate steps to mitigate its loss.

94. Specifically, the Panel reviewed claims in this category for returning employees to Kuwait. With regard to these claims, the Panel agreed in principle that these losses are the direct result of Iraq's invasion and occupation of Kuwait as it was reasonable that evacuated employees would need to be returned to Kuwait for the claimant to mitigate its losses. When compensating claims for the cost of returning employees to Kuwait, the Panel applied the criteria described in the Fourth "E4" Report, (see para. 88).

95. The claimants were requested through PAAC on 6 January 1999 to provide the information set out in paragraph 88 of the Fourth "E4" Report. Those claims for returning employees that the Panel recommends disallowing failed to provide sufficient information in response to this request.

96. Al Mansoor & Al Abdaly Trading & Contracting Co. seeks reimbursement for the costs associated with tendering bids and salary payments to its employees after liberation. During the Mission, the claimant explained that all of these costs were incurred from 17 August 1991 to 31 December 1993. The claimant provided invoices and payment vouchers to support the

amount claimed. The Panel finds that these expenses are not a direct result of Iraq's invasion and occupation of Kuwait and therefore recommends disallowing the claim.

97. Mohamed Naser Al-Sayer & Sons Est. seeks compensation for the cost of operating an office in Dubai that it rented in January 1991. The office was used to liaise with its suppliers and customers and arrange for the return of its employees after liberation. The claimant provided a schedule listing a variety of expenditures relating to the Dubai office, but it failed to provide sufficient evidence of payment of these items. During the Mission, the claimant promised to provide proof of payment if possible. However, sufficient evidence was not provided. Therefore, the Panel recommends disallowing the claim.

98. Hamad Al Khaled & Brothers Co. asserted a claim for salaries, fuel costs and rental charges, which included costs incurred by the claimant in August 1991. The expenses incurred in August 1991 were not found to be extraordinary expenses directly related to Iraq's invasion and occupation of Kuwait since they would have been incurred by the claimant regardless of the invasion and occupation. Therefore, the Panel recommends disallowing the claim.

99. Boodai Trading Co. seeks compensation for a satellite dish that allows international communication. The claimant purchased it when it restarted operations as telephone service was not yet available. During the Mission, the claimant stated that it did not sell the satellite dish for its salvage value since the equipment was out-of-date. Instead, the claimant continued to use it. As the claimant continued to benefit from its use, the Panel recommends disallowing the claim.

100. The Panel's recommendations with respect to restart costs are set out in annex II.

H. Other losses

101. Claimants seek compensation for losses suffered as a result of the cancellation by the Government of Kuwait of certain Kuwaiti dinar currency notes during Iraq's invasion and occupation of Kuwait (see the Fourth Report, para. 93). The losses represent the amount of cash held by the claimants prior to the invasion that formed part of the subsequently cancelled notes. The Panel followed the same approach taken in the Fourth "E4" Report, (see para. 93).

102. Abbas Ahmed Al-Shawaf & Bros. Co. made a claim for such cancelled Kuwaiti dinar currency notes. During the Mission, the cancelled notes kept by the claimant were inspected. The claimant held the amount in question prior to the invasion to pay the salaries of its employees. In a meeting with the claimant, the notes were manually counted and their serial numbers were matched with the list of serial numbers that were cancelled by the

Government of Kuwait during Iraq's invasion and occupation of Kuwait. Therefore, the Panel recommends allowing this claim.

103. With regard to Yusuf Ahmed Alghanim & Sons's claim for Iraqi dinar losses, the Panel applied the criteria described in the Fourth "E4" Report, (see paras. 95-97).

104. Two related claimants, Abdul Aziz Ahmed Al-Ghannam & Bros. Co. and The Kuwait for Importing Auto Spare Parts Co., seek compensation for a loss categorized as bribes. The statement of claim for the former claimant provides that the those sums were paid "to the Iraqis in order to protect and secure the total inventory of the companies owned by the claimant...". The claimants provided schedules listing the amounts paid and provided a witness statement. The Panel followed the same approach taken in the Fourth "E4" Report (see para. 99) and recommends disallowing the claims.

105. Arabian Motors Group Co. and Bader Al Mulla & Bros. Co. claimed compensation for prepaid expenses, including insurance premiums and rent paid in advance for months during the occupation of Kuwait. Likewise, Abbas Ahmed Al-Shawaf & Bros. Co. claimed compensation for items including the unexpired portion of prepaid maintenance contracts for its air-conditioning system, office and other equipment. The Panel follows the same approach taken in the Fourth "E4" Report, (see para. 103) and recommends disallowing the claims.

106. Maseelah Trading Co. and Bader Al Mulla & Bros. Co. seek compensation for refundable deposits paid to the Government of Kuwait and other parties prior to Iraq's invasion and occupation of Kuwait in relation to the provision of services such as electricity and water. The claimants stated that all the receipts and the computer records evidencing the payment of these deposits were lost or destroyed during the invasion and occupation. Both claimants, which are related, stated that they were "unable to even make an attempt to estimate the quantum and nature" of the deposits. The claimants were required to repay these deposits after liberation. The Panel finds that these deposits were not lost as they are still held by the entity that originally accepted the deposits. The Panel therefore recommends disallowing the claims since the double payment of the deposits by the claimants after liberation was a result of a business decision made by the entities holding the deposits and was not directly caused by Iraq's invasion and occupation of Kuwait.

107. Two additional claimants, Al-Zayani Trading Co. Partnership and Kuwait Automobile & Trading Co., seek compensation for the loss of refundable deposits but they did not provide sufficient information as to the nature of these deposits or whether they had to repay them after liberation. For the lack of sufficient evidence, the Panel recommends disallowing the claims.

108. Al Mansoor & Al Abdaly Trading & Contracting Co. seeks compensation for the depreciation of the claimant's fixed assets from 1 August 1990 to

31 December 1993. The Panel held that such depreciation would have been incurred regardless of Iraq's invasion and occupation of Kuwait, and therefore recommends disallowing the claim.

109. Mohamed Naser Al-Sayer & Sons Est. seeks compensation for the costs associated with collecting its bad debts. The Panel found that a claimant should only be awarded compensation for fees incurred to pursue debtors when:

(a) the bad debts themselves are compensable; and
(b) the claimant can show that it would not have incurred the costs but for Iraq's invasion and occupation of Kuwait.

To fulfil the second element of the test, the claimant should provide proof that it incurred legal fees after liberation beyond the amount historically incurred. However, because the claimant's bad debts were not compensable, the Panel recommends disallowing this claim for Mohamed Naser Al-Sayer & Sons Est. Applying the same criteria, the Panel recommends allowing a portion of Yusuf Ahmed Alghanim & Sons' claim.

110. The Panel's recommendations with respect to other losses are set out in annex II.

VI. OTHER ISSUES

A. Applicable dates for currency exchange rate and interest

111. In relation to determining the applicable dates for the currency exchange rate and interest, the Panel adopts the same approach used in the First "E4" Report. (See the First "E4" Report, paras. 226-233).

B. Claim preparation costs

112. The Panel has been informed by the Executive Secretary of the Commission that the Governing Council intends to resolve the issue of claim preparation costs in the future. Accordingly, the Panel makes no recommendation with respect to compensation for claim preparation costs.

VII. RECOMMENDED AWARDS

113. Based on the foregoing, the awards recommended by the Panel for claimants in the fifth instalment of "E4" claims are set out in annex I to this report. The underlying principles behind the Panel's recommendations on claims in this instalment are summarized in annex II to this report. Because of rounding, the amounts may vary from the amount stated on Form E by 1 KD.

Geneva, 9 December 1999

(Signed) Luiz Olavo Baptista
Chairman

(Signed) Jean Naudet
Commissioner

(Signed) Jianxi Wang
Commissioner

[ENGLISH ONLY]

Annex I

Recommended awards for fifth instalment of "E4" claims
Reported by UNSEQ and UNCC claim numbers and claimant name

UNSEQ claim no*	UNCC claim no*	Claimant's Name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00087	4003111	Al-Jazira & Quraini Transportation Co.	4,720,642	4,714,644	2,456,915	8,501,295
E-00088	4003112	Ali & Fouad M. T. Alghanim Automotive Co. W.L.L.	5,057,514	4,430,055	2,943,667	10,183,183
E-00089	4003113	Mohamed Naser Al-Sayer & Sons Est.	33,706,750	33,705,700	6,025,688	20,833,902
E-00111	4003157	Al Mulla International Trading & Contracting Co.	32,368,579	32,368,579	447,207	1,543,940
E-00279	4003414	Arabian Motors Group Co./ Hamad Mohamed Abdulaziz Al Wazzan & Partners W.L.L.	7,129,328	6,388,199	4,375,105	15,137,705
E-00354	4003474	Mohammad Saleh & Reza Yousuf Behbehani Co.	8,554,502	7,953,025	5,087,981	17,602,771
E-00767	4003884	Boodai Trading Company Ltd. W.L.L.	13,788,430	11,414,797	3,039,843	10,518,487
E-00878	4003957	Abbas Ahmed Al-Shawaf & Bros. Co. W.L.L.	6,457,382	6,450,382	2,177,931	7,534,042
E-01295	4004424	Al-Fajji Trading & Contracting Co.	32,133,343	32,127,128	12,591,752	43,570,077
E-01373	4004481	Maseelah Trading Co.	8,052,396	8,052,396	5,451,141	18,857,715
E-01419	4004521	Abdul Aziz Ahmed Al Ghannam & Brothers Company	4,571,195	4,230,038	2,373,788	8,209,424
E-01456	4004577	Al Qurain Automotive Trading Co. (K.S.C.)	5,698,282	5,014,009	3,027,716	10,474,109
E-01494	4004560	Abdulmohsen Abdulaziz Al-Babtain Co.	22,823,796	21,102,589	5,692,577	19,677,484
E-01495	4004561	Al-Babtain Trading & Contracting Co.	9,039,716	7,681,194	1,897,243	6,564,854
E-01544	4004662	Bader Al Mulla & Bros. Co. W.L.L.	9,346,638	9,346,638	4,820,904	16,674,311
E-01555	4004653	The Kuwait for Importing Auto Spare Parts Co.	7,082,531	6,564,441	4,414,805	15,266,533
E-01597	4004705	Abdul Rahman Al-Bisher & Zaid Al-Kazemi	8,980,677	8,119,767	5,400,072	18,668,386
E-01722	4004830	Al Mansoor & Al Abdaly Trading & Contracting Co. W.L.L.	4,058,207	3,679,507	754,695	2,611,402
E-01812	4004916	Yusuf Ahmed Alghanim and Sons W.L.L.	145,007,854	145,007,854	37,370,260	129,244,246
E-01882	4005046	Kuwait Bulgarian Trading Co. W.L.L.	3,082,423	3,079,173	1,414,631	4,894,917
E-01956	4005064	Kuwait Automobile & Trading Co./ Fawzi Al Fawzan & Jasim Abdulrahman Al Zayani Ltd.	3,302,959	2,872,138	1,461,748	5,057,711
E-01957	4005065	Al-Zayani Trading Co. Partnership	3,887,898	3,380,781	1,456,423	5,039,244
E-01995	4005103	Hamad Al Khaled & Brothers Co.	6,033,499	5,048,779	4,242,545	14,679,862
TOTAL			384,884,541	372,731,813	118,924,637	411,345,600

Annex I

Recommended awards for fifth instalment of "E4" claims

Reported by UNSEQ and UNCC claim numbers and claimant name

* The UNSEQ number is the provisional claim number assigned to each claim by PAAC.

** The "Net amount claimed" is the original amount claimed less the amount claimed for claim preparation costs and interest. As set forth in paragraphs 111 and 112 of the report, the Panel has made no recommendation with regard to these items.

[ENGLISH ONLY]

Annex II

Recommended awards for fifth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Al-Jazira & Quraini Transportation Co.
UNCC claim number:	4003111
UNSEQ number:	E-00087

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	46,757	37,406	Claim adjusted for maintenance.
Loss of tangible property	101,794	51,135	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for maintenance and depreciation.
Loss of stock	28,652	10,858	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	2,749,327	2,344,564	Claim adjusted to M.V.V. Table values and for evidentiary shortcomings.
Loss of profits	1,788,114	12,952	Original other loss not categorised claim reclassified to loss of profits. Claim adjusted to reflect historical results.
TOTAL	4,714,644	2,456,915	

Claim preparation costs	5,998	n.a.	Governing Council's determination pending. See paragraph 112 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Ali & Fouad M.T. Alghanim Automotive Co. W.L.L.
UNCC claim number: 4003112
UNSEQ number: E-00088

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	610,669	247,891	Claim adjusted for depreciation, maintenance, failure to repair/replace and evidentiary shortcomings.
Loss of tangible property	168,228	120,632	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	2,946,013	2,284,310	Claim adjusted for evidentiary shortcomings.
Loss of cash	22,222	0	Insufficient evidence to substantiate claim.
Loss of vehicles	77,800	60,839	Claim adjusted to M.V.V. Table values.
Loss of profits	458,891	229,995	Claim adjusted to reflect historical results. for windfall profits and evidentiary shortcomings.
Bad debts	146,232	0	Claim adjusted for evidentiary shortcomings.
TOTAL	4,430,055	2,943,667	

Interest	627,459	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of 'E4' claims
Reported by claimant name and category of loss

Claimant's name:	Mohamed Naser Al-Sayer & Sons Est.
UNCC claim number:	4003113
UNSEQ number:	E-00089

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	2,241,819	946,145	Claim adjusted for maintenance, failure to repair/replace and evidentiary shortcomings.
Loss of tangible property	1,098,815	702,538	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for depreciation. The claim for Persian rugs was adjusted as per paragraph 50 of the report.
Loss of stock	3,982,484	2,581,999	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of cash	28,436	0	Insufficient evidence to substantiate claim.
Loss of vehicles	547,392	311,621	Claim adjusted to M.V.V. Table values and for evidentiary shortcomings.
Loss of profits	8,226,938	1,483,385	Original other loss not categorised claim reclassified to loss of profits and restart costs. Claim adjusted to reflect historical results and windfall profits.
Bad debts	17,135,073	0	Original contracts claim reclassified to bad debts and other loss not categorised. Claim adjusted as per paragraph 88 of the report and for evidentiary shortcomings.
Restart costs	380,243	0	Claim adjusted as per paragraph 97 of the report.
Other loss not categorised	64,500	0	Claim adjusted as per paragraph 109 of the report.
TOTAL	33,705,700	6,025,688	

Claim preparation costs	1,050	n.a.	Governing Council's determination pending. See paragraph 112 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Mulla International Trading & Contracting Co.
UNCC claim number: 4003157
UNSEQ number: E-00111

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	45,440	45,440	Claim awarded in full.
Loss of cash	2,300	0	Original other loss not categorised claim reclassified to loss of cash, profits and bad debts. Insufficient evidence to substantiate claim.
Loss of profits	11,770,691	401,767	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	20,550,148	0	Claim adjusted as per paragraph 88 of the report and failed for evidentiary shortcomings.
TOTAL	32,368,579	447,207	

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Arabian Motors Group Co./ Hamad Mohamed Abdulaziz Al Wazzan & Partners W.L.L.
UNCC claim number:	4003414
UNSEQ number:	E-00279

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	17,715	0	Claim adjusted as per paragraph 34 of the report.
Loss of real property	133,414	106,731	Claim adjusted for maintenance.
Loss of tangible property	564,336	406,337	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for evidentiary shortcomings, failure to repair/replace and depreciation.
Loss of stock	4,354,853	3,652,008	Claim adjusted for evidentiary shortcomings, obsolescence and stock build-up
Loss of cash	85,127	0	Insufficient evidence to substantiate loss.
Loss of vehicles	102,621	87,228	Claim adjusted for evidentiary shortcomings.
Loss of profits	188,266	97,496	Claim adjusted for windfall profits and evidentiary shortcomings.
Bad debts	831,270	0	Insufficient evidence to substantiate loss.
Restart costs	25,305	25,305	Claim reclassified to restart costs and loss of profits. Claim awarded in full.
Other loss not categorised	85,292	0	Claim reclassified to other loss not categorised, cash, bad debts and contracts. Claim adjusted as per paragraph 105 of the report.
TOTAL	6,388,199	4,375,105	

Claim preparation costs	7,350	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	733,779	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Mohammad Saleh & Reza Yousuf Behbehani Co.
UNCC claim number:	4003474
UNSEQ number:	E-00354

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	152,987	101,543	Claim adjusted for maintenance and evidentiary shortcomings.
Loss of tangible property	32,494	19,544	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for depreciation.
Loss of stock	4,718,871	4,714,223	Stock claim awarded in full. Goods in transit claim adjusted for obsolescence.
Loss of cash	40,775	0	Insufficient evidence to substantiate claim.
Loss of vehicles	40,316	0	Insufficient evidence to substantiate claim, i.e., no deregistration certificates.
Loss of profits	795,256	246,671	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	2,165,267	0	Claim adjusted for evidentiary shortcomings.
Restart costs	7,059	6,000	Claim adjusted for evidentiary shortcomings.
TOTAL	7,953,025	5,087,981	

Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	596,477	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Boodai Trading Company Ltd. W.L.L.
UNCC claim number: 4003884
UNSEQ number: E-00767

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	55,032	52,703	Claim adjusted for depreciation.
Loss of tangible property	320,710	253,219	Claim reclassified to loss of real property, tangible property, stock, cash and vehicles. Original other loss not categorised reclassified to loss of tangible property, profits and restart costs. Claim adjusted for depreciation, failure to repair/replace and evidentiary shortcomings.
Loss of stock	4,729,336	2,642,766	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of cash	29,722	0	Insufficient evidence to substantiate claim.
Loss of vehicles	26,447	23,500	Claim adjusted to reflect M.V.V. Table values. "Non-M.V.V. Table" vehicles adjusted as per paragraph 54 of the report.
Loss of profits	119,197	0	Claim adjusted to reflect historical results.
Bad debts	6,096,687	67,655	Claim adjusted for evidentiary shortcomings as per paragraph 82-84 of the report.
Restart costs	37,666	0	Insufficient evidence to substantiate claim; satellite dish claim adjusted as per paragraph 99 of the report.
TOTAL	11,414,797	3,039,843	

Claim preparation costs	63,414	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	2,310,219	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Abbas Ahmed Al-Shawaf & Bros. Co. W.L.L.
UNCC claim number: 4003957
UNSEQ number: E-00878

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	9,725	7,780	Claim adjusted for maintenance.
Loss of tangible property	1,126,981	399,965	Claim reclassified to loss of tangible property, stock, vehicles and other loss not categorised. Claim adjusted for maintenance, evidentiary shortcomings and to reflect recognised foreign exchange rates.
Loss of stock	1,139,977	999,445	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	464,547	411,042	Claim adjusted to reflect M.V.V. Table values. "Non-M.V.V. Table" vehicles adjusted as per paragraph 54 of the report.
Loss of profits	205,748	171,873	Original claim for payment or relief to others reclassified to loss of profits. Claim adjusted for evidentiary shortcomings.
Bad debts	3,303,659	0	Original contracts claim reclassified to bad debts. Insufficient evidence to substantiate claim.
Restart costs	96,414	96,414	Claim awarded in full.
Other loss not categorised	103,331	91,412	Claim reclassified to other loss not categorised, loss of stock, profits, bad debts and restart costs. Original claim for business transaction reclassified to other loss not categorised. Kuwaiti dinar claim awarded in full as per paragraph 102 of the report. Pre-paid expenses claim adjusted as per paragraph 105 of the report.
TOTAL	6,450,382	2,177,931	

Claim preparation costs	7,000	n.a.	Governing Council's determination pending. See paragraph 112 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Fajji Trading & Contracting Co.
UNCC claim number:	4004424
UNSEQ number:	E-01295

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	12,995,932	8,536,534	Claim reclassified to loss of tangible property and vehicles. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of vehicles	63,785	36,442	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	3,736,035	3,736,035	Claim awarded in full.
Bad debts	15,331,376	282,741	Original contracts claim reclassified to bad debts. Claim adjusted as per paragraph 89 of the report.
TOTAL	32,127,128	12,591,752	

Claim preparation costs	6,215	n.a.	Governing Council's determination pending. See paragraph 112 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Maseelah Trading Co.
UNCC claim number: 4004481
UNSEQ number: E-01373

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	104,305	74,741	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	5,390,156	4,839,982	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	4,716	0	Insufficient evidence to substantiate claim.
Loss of vehicles	6,869	6,869	Claim awarded in full.
Loss of profits	1,716,000	502,474	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	807,903	27,075	Claim adjusted for evidentiary shortcomings.
Other loss not categorised	22,447	0	Claim adjusted as per paragraph 106 of the report.
TOTAL	8,052,396	5,451,141	

Annex II

Recommended awards for fifth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Abdul Aziz Ahmed Al Ghannam & Brothers Company
UNCC claim number: 4004521
UNSEQ number: E-01419

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	166,529	134,384	Claim reclassified to loss of real property, tangible property and profits. Claim adjusted for maintenance and depreciation.
Loss of tangible property	211,488	124,871	Claim reclassified to loss of tangible property, real property, stock and vehicles. Claim adjusted for depreciation, maintenance and evidentiary shortcomings.
Loss of stock	2,319,336	1,702,373	Claim adjusted for stock build-up, evidentiary shortcomings and obsolescence.
Loss of vehicles	3,700	3,265	Claim adjusted to reflect M.V.V. Table values.
Payment or relief to others	2,894	2,894	Claim reclassified to payment or relief to others and loss of profits. Claim awarded in full.
Loss of profits	409,212	400,065	Claim adjusted for evidentiary shortcomings.
Bad debts	1,024,516	0	Insufficient evidence to substantiate claim.
Other loss not categorised	92,363	5,936	Claim reclassified to other loss not categorised, stock and bad debts. Claim for cost of returning goods in transit to sender adjusted for evidentiary shortcomings. Claim for bribes adjusted as per paragraph 104 of the report.
TOTAL	4,230,038	2,373,788	

Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	331,157	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al Qurain Automotive Trading Co. (K.S.C.)
UNCC claim number:	4004577
UNSEQ number:	E-01456

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	89,195	59,778	Claim adjusted for depreciation and maintenance.
Loss of tangible property	145,667	98,087	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim for rental cars adjusted for maintenance, betterment and evidentiary shortcomings. Computer system claim awarded in full.
Loss of stock	2,931,068	2,349,604	Claim adjusted for stock build-up and evidentiary shortcomings.
Loss of cash	12,229	0	Insufficient evidence to substantiate claim.
Loss of vehicles	292,916	291,987	Claim adjusted to reflect M.V.V. Table values.
Payment or relief to others	19,830	7,369	Claim reclassified to payment or relief to others and loss of profits. Claim adjusted as per paragraph 69 of the report.
Loss of profits	1,523,104	220,891	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	5,014,009	3,027,716	

Claim preparation costs	24,419	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	659,854	n.a.	Original other loss not categorised reclassified to interest. Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Abdulmohsen Abdulaziz Al-Babtain Co.
UNCC claim number: 4004560
UNSEQ number: E-01494

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	641,342	505,202	Claim adjusted for failure to repair/replace and evidentiary shortcomings.
Loss of tangible property	979,821	304,103	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation, failure to repair/replace and evidentiary shortcomings.
Loss of stock	3,798,085	2,848,983	Claim adjusted for evidentiary shortcomings and for obsolescence on the stocks of forklifts, cranes and spare parts. Vehicle stock reviewed in part as per paragraph 60 of the report.
Loss of vehicles	390,257	44,132	Claim adjusted for evidentiary shortcomings and to reflect M.V.V. Table values.
Payment or relief to others	116,384	87,009	Other loss not classified claim reclassified to payment or relief to others, loss of profits and restart costs. Claim adjusted for evidentiary shortcomings.
Loss of profits	5,183,238	1,829,484	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	9,900,576	0	Insufficient evidence to substantiate loss.
Restart costs	92,886	73,664	Claim adjusted for evidentiary shortcomings.
TOTAL	21,102,589	5,692,577	

Claim preparation costs	33,000	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	1,688,207	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Babtain Trading & Contracting Co.
UNCC claim number:	4004561
UNSEQ number:	E-01495

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	153,340	153,340	Claim awarded in full.
Loss of tangible property	895,617	403,603	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	1,047,555	734,727	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of vehicles	2,099,448	605,573	Claim adjusted to reflect M.V.V. Table values and for evidentiary shortcomings, including the comment in paragraph 55 of the report. "Non-M.V.V. Table" vehicles adjusted as per paragraph 54 of the report.
Bad debts	3,485,234	0	Insufficient evidence to substantiate claim.
TOTAL	7,681,194	1,897,243	

Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	1,353,522	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II
Recommended awards for fifth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Bader Al Mulla & Bros. Co. W.L.L.
UNCC claim number:	4004662
UNSEQ number:	E-01544

Category of loss	Amount Asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	348,503	219,642	Claim reclassified to loss of contract and bad debts. Claim adjusted for evidentiary shortcomings.
Loss of real property	2,384,865	1,525,349	Claim adjusted for maintenance, depreciation, failure to repair/replace and evidentiary shortcomings.
Loss of tangible property	374,232	240,853	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	2,712,250	1,971,805	Stock claim adjusted for obsolescence and evidentiary shortcomings. Insufficient evidence to support goods in transit claim.
Loss of cash	26,518	0	Insufficient evidence to support claim.
Loss of vehicles	55,275	55,275	Claim awarded in full.
Loss of profits	1,342,000	807,980	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	1,892,637	0	Insufficient evidence to support claim.
Other loss not categorised	210,358	0	Pre-paid expenses claim adjusted as per paragraph 105 of the report. Deposits claim adjusted as per paragraph 106 of the report.
TOTAL	9,346,638	4,820,904	

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	The Kuwait for Importing Auto Spare Parts Company
UNCC claim number:	4004653
UNSEQ number:	E-01555

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	273,708	127,858	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	4,104,349	3,397,713	Claim adjusted for obsolescence, stock build-up and evidentiary shortcomings.
Loss of vehicle	600	417	Claim adjusted to M.V.V. Table value.
Payment or relief to others	10,556	10,556	Claim reclassified to payment or relief to others and loss of profits. Claim awarded in full.
Loss of profits	953,650	878,261	Claim adjusted for evidentiary shortcomings.
Bad debts	962,901	0	Insufficient evidence to substantiate claim.
Other loss not categorised	258,677	0	Claim adjusted as per paragraph 104 of the report.
TOTAL	6,564,441	4,414,805	

Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	513,090	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Abdul Rahman Al-Bisher & Zaid Al-Kazemi
UNCC claim number: 4004705
UNSEQ number: E-01597

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	80,610	49,802	Claim adjusted for evidentiary shortcomings and maintenance.
Loss of tangible property	553,462	537,417	Claim reclassified to loss of tangible property, stock, cash and vehicles. Restart costs reclassified to loss of tangible property. Claim adjusted for depreciation and maintenance.
Loss of stock	5,172,703	2,724,045	Claim adjusted for stock build-up, obsolescence, and evidentiary shortcomings.
Loss of cash	27,549	0	Insufficient evidence to substantiate claim.
Loss of vehicles	191,910	89,710	Claim adjusted for evidentiary shortcomings and to reflect M.V.V. Table values.
Payment or relief to others	49,638	43,896	Claim reclassified to payment or relief to others and loss of profits. Claim adjusted for evidentiary shortcomings.
Loss of profits	2,043,895	1,955,202	Claim for income-producing property reclassified to loss of profits. Claim adjusted for evidentiary shortcomings.
TOTAL	8,119,767	5,400,072	

Claim preparation costs	15,153	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	845,757	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Mansoor & Al Abdaly Trading & Contracting Co. W.L.L.
UNCC claim number: 4004830
UNSEQ number: E-01722

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	502,482	0	Insufficient evidence to substantiate claim.
Loss of real property	12,014	6,007	Claim adjusted for maintenance and depreciation.
Loss of tangible property	72,748	51,098	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for maintenance and failure to repair/replace.
Loss of stock	411,537	201,267	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	756,194	496,323	Claim adjusted to reflect M.V.V. Table values. "Non-M.V.V. Table" vehicles adjusted as per paragraph 54 of the report.
Bad debts	1,831,577	0	Claim adjusted as per paragraph 90 of the report.
Restart costs	72,284	0	Claim adjusted as per paragraph 96 of the report.
Other loss not categorised	20,671	0	Claim adjusted as per paragraph 108 of the report.
TOTAL	3,679,507	754,695	

Claim preparation costs	10,750	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	367,950	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II
Recommended awards for fifth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Yusuf Ahmed Alghanim and Sons W.L.L.
UNCC claim number:	4004916
UNSEQ number:	E-01812

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	273,881	40,833	Claim reclassified to loss of contract, profits and bad debts. Claim adjusted for evidentiary shortcomings.
Loss of real property	2,108,142	1,441,013	Claim reclassified to loss of real property, tangible property, vehicles and profits. Claim adjusted for maintenance, failure to repair/replace and evidentiary shortcomings.
Loss of tangible property	2,714,851	1,487,892	Claim reclassified to loss of tangible property, stock, vehicles and other loss not categorised. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	24,639,181	21,683,338	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	6,076,108	5,511,994	Claim adjusted to reflect M.V.V. Table values and for evidentiary shortcomings.
Loss of profits	98,009,672	5,905,733	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months as per paragraph 75 of the report.
Bad debts	9,302,118	377,833	Original business transaction claim reclassified to bad debts and other loss not categorised. Claim adjusted for evidentiary shortcomings and as per paragraph 91 of the report.
Other loss not categorised	1,883,901	921,624	Claim for Iraqi dinar adjusted as per paragraph 103 of the report and claim for collection costs adjusted as per paragraph 109 of the report. Claim adjusted for evidentiary shortcomings.
TOTAL	145,007,854	37,370,260	

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Bulgarian Trading Co. W.L.L.
UNCC claim number:	4005046
UNSEQ number:	E-01882

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	3,023	2,198	Claim reclassified to loss of tangible property and vehicles. Claim adjusted for depreciation and failure to repair/replace.
Loss of vehicles	3,076,150	1,412,433	Claim adjusted to reflect M.V.V. Table values. "Non-M.V.V. Table" vehicles adjusted as stated in paragraph 54 of the report.
TOTAL	3,079,173	1,414,631	

Claim preparation costs	3,250	n.a.	Governing Council's determination pending. See paragraph 112 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Automobile & Trading Co./ Fawzi Al Fawzan & Jasim Abdulrahman Al Zayani Ltd.
UNCC claim number: 4005064
UNSEQ number: E-01956

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	710,981	355,490	Claim adjusted for depreciation.
Loss of tangible property	30,650	23,627	Claim reclassified to loss of tangible property, stock, vehicles, bad debts, real property and other loss not categorised. Claim adjusted for depreciation.
Loss of stock	1,305,521	957,578	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	40,657	34,558	Claim adjusted for evidentiary shortcomings.
Loss of profits	90,495	90,495	Claim awarded in full.
Bad debts	686,901	0	Insufficient evidence to substantiate claim.
Other loss not categorised	6,933	0	Claim adjusted as per paragraph 107 of the report.
TOTAL	2,872,138	1,461,748	

Interest	430,821	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Zayani Trading Co. Partnership
UNCC claim number: 4005065
UNSEQ number: E-01957

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	102,347	77,980	Claim reclassified to loss of tangible property, stock, vehicles, bad debts and other loss not categorised. Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	1,971,926	1,270,725	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	1,845	1,568	Claim adjusted for evidentiary shortcomings.
Loss of profits	141,534	106,150	Claim adjusted for windfall profits.
Bad debts	1,157,019	0	Insufficient evidence to substantiate claim.
Other loss not categorised	6,110	0	Claim adjusted as per paragraph 107 of the report.
TOTAL	3,380,781	1,456,423	

Interest	507,117	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex II

Recommended awards for fifth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Hamad Al Khaled & Brothers Co.
UNCC claim number:	4005103
UNSEQ number:	E-01995

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	481,768	197,823	Claim reclassified to loss of tangible property, stock, vehicles and bad debts. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	268,653	136,884	Claim adjusted for stock build-up and evidentiary shortcomings.
Loss of vehicles	4,234,326	3,881,895	Claim adjusted to reflect M.V.V. Table values.
Payment or relief to others	5,369	5,369	Claim awarded in full.
Loss of profits	45,720	20,574	Claim adjusted for evidentiary shortcomings.
Bad debts	769	0	Insufficient evidence to substantiate claim.
Restart costs	11,994	0	Claim adjusted as per paragraph 98 of the report.
Other loss not categorised	180	0	Claim reclassified to other loss not categorised, tangible property, payment or relief to others, profits and restart costs. Insufficient evidence to substantiate claim.
TOTAL	5,048,779	4,242,545	

Claim preparation costs	14,185	n.a.	Governing Council's determination pending. See paragraph 112 of the report.
Interest	970,535	n.a.	Governing Council's determination pending. See paragraph 111 of the report.

Annex XV

Decision concerning the fifth instalment of E4 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the fifth instalment of "E4" claims, covering 23 claims, 1/

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report. The aggregate amount awarded, based on the recommendations contained in annex I to the report, is as follows:

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Kuwait	23	-	1,331,780,419	411,345,600

3. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)),

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* Previously issued as document S/AC.26/Dec.92 (2000).

[1] The text of the report appears in document S/AC.26/2000/7 (annex XIV above).

4. Recalls that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), the Government of the State of Kuwait shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

5. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to the Government of the State of Kuwait.

Annex XVI

Report and recommendations made by the Panel of Commissioners concerning the sixth instalment of E4 claims*

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* Previously issued as document S/AC.26/2000/8.

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	619
I. OVERVIEW OF THE SIXTH INSTALMENT CLAIMS	4 - 8	619
II. THE PROCEEDINGS	9 - 20	620
III. LEGAL FRAMEWORK AND VERIFICATION AND VALUATION METHODOLOGY	21 - 23	622
IV. THE CLAIMS	24 - 90	622
A. Contract	25 - 29	622
B. Real property	30 - 35	623
C. Tangible property, stock, cash and vehicles	36 - 49	624
D. Payment or relief to others	50 - 53	626
E. Loss of profits	54 - 61	626
F. Receivables	62 - 71	628
G. Restart costs	72 - 80	629
H. Other losses	81 - 90	631
V. OTHER ISSUES	91 - 92	633
A. Applicable dates for currency exchange rate and interest	91	633
B. Claim preparation costs	92	633
VI. RECOMMENDED AWARDS	93	633

Annexes

Annex I: Recommended awards for the sixth instalment of "E4" claims - reported by UNSEQ and UNCC claim number and claimant name 634

Annex II: Recommended awards for the sixth instalment of "E4" claims - reported by claimant name and category of loss 641

Introduction

1. At its twenty-fourth session, held on 23-24 June 1997, the Governing Council of the United Nations Compensation Commission (the "Commission") appointed Messrs. Robert R. Briner (Chairman), Alan J. Cleary and Lim Tian Huat as the Panel of Commissioners (the "Panel") charged with reviewing "E4" claims. The "E4" population consists of claims submitted by Kuwaiti entities, other than oil sector and environmental claimants, eligible to file claims under the Commission's "Claim Forms for Corporations and Other Entities" ("Form E").

2. The sixth instalment of 140 "E4" claims was submitted to the Panel on 9 August 1999, in accordance with article 32 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules").

3. Pursuant to article 38 of the Rules, this report contains the Panel's recommendations to the Governing Council concerning the sixth instalment claims.

I. OVERVIEW OF THE SIXTH INSTALMENT CLAIMS

4. The 140 sixth instalment claims were selected from the population of approximately 2,750 "E4" claims on the basis of criteria that include, inter alia, the size, volume and complexity of the claims, the legal, factual, and valuation issues raised by the claims, and the date of filing of the claims with the Commission.

5. The sixth instalment claims have alleged losses aggregating Kuwaiti dinars ("KD") 47,934,880 (approximately US$165,864,637). The claimants have also asserted claims for interest in the amount of KD 1,968,173 (approximately US$6,810,287) and claim preparation costs aggregating KD 235,515 (approximately US$814,931).

6. The amount claimed by each claimant in the sixth instalment is less than KD 3 million (approximately US$10 million). The nature of the legal and factual issues raised in each claim and the amount of documentation provided in support of each claim has allowed the Panel to complete its verification of the claims within 180 days.

7. All of the claimants in the sixth instalment operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. Most claimants conducted trading operations dealing in a variety of goods ranging from consumer items to construction equipment. Some claimants were engaged in manufacturing and service industries. A few claimants are non-profit organizations and trade associations.

8. Claimants in this instalment have sought compensation for all the types of losses identified on Form E except two - loss of "business transaction or course of dealing" and loss of "income-producing property". The two most common losses asserted are loss of tangible property (mainly

stock, furniture, fixtures, equipment and vehicles) and loss of earnings or profits. Claimants have also sought compensation for uncollectible receivables, restart costs, interest and claim preparation costs as "other losses".

II. THE PROCEEDINGS

9. Before the sixth instalment claims were submitted to the Panel, the secretariat undertook a preliminary assessment of the claims in accordance with the Rules. This review is described in paragraph 11 of the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E4' claims" (S/AC.26/1999/4) (the "First 'E4' Report"). The results of the review were entered into a centralized database maintained by the secretariat (the "Claims Database").

10. Originally 13 claims presented formal deficiencies and the secretariat issued notifications to these claimants pursuant to article 15 of the Rules. All formal deficiencies were corrected by the claimants.

11. A substantive review of the claims was undertaken to identify significant legal, factual and valuation issues. The results of the review, including the significant issues identified, were recorded in the Claims Database.

12. The Executive Secretary of the Commission submitted reports 26, 27 and 28 dated 11 January 1999, 26 April 1999 and 28 October 1999, respectively, to the Governing Council in accordance with article 16 of the Rules. These reports covered, inter alia, the sixth instalment of "E4" claims and presented the significant legal and factual issues identified in these claims. A number of Governments, including the Government of Iraq, submitted additional information and views in response to the Executive Secretary's article 16 reports.

13. At the conclusion of the (i) preliminary assessment; (ii) substantive review; and (iii) article 16 reporting, the following documents were made available to the Panel:

(a) the claim documents submitted by the claimants;

(b) the preliminary assessment reports prepared under article 14 of the Rules;

(c) information and views of Governments, including the Government of Iraq, received in response to the article 16 reports; and

(d) other information, such as legal briefing notes, deemed, under article 32 of the Rules, to be useful to the Panel for its work.

14. For the reasons stated in paragraph 17 of the First "E4" Report, the Panel retained the services of an accounting firm and a loss adjusting firm

as expert consultants. The Panel directed the expert consultants to review each claim in the sixth instalment in accordance with the verification and valuation methodology developed by the Panel. The Panel directed the expert consultants to submit to the Panel a detailed report for each claim summarizing the expert consultants' findings.

15. By its procedural order dated 9 August 1999, the Panel gave notice of its intention to complete its review of the sixth instalment claims and submit its report and recommendations to the Governing Council within 180 days of 9 August 1999. This procedural order was transmitted to the Government of Iraq and the Government of Kuwait.

16. Pursuant to article 34 of the Rules, additional information was requested from the claimants in order to assist the Panel in its review of the claims. Claimants who were unable to submit the evidence requested were asked to provide reasons for their inability to comply with such requests. All requests for additional information were directed through the Government of Kuwait's Public Authority for Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC"). The requests for additional information were made in relation to the entire "E4" claims population and not just the sixth instalment claims.

17. Most of the requests for additional information have been described in paragraphs 21-26 of the "Report and recommendations made by the Panel of Commissioners concerning the second instalment of 'E4' claims" (S/AC.26/1999/17) (the "Second 'E4' Report"). These requests for information are not restated in this report.

18. On 24 June 1999, claimants with goods in transit losses were asked to provide proof of payment for the goods shipped, in addition to Port Authority documents demonstrating that the goods were received in Kuwait. On 2 August 1999, PAAC replied requesting the identification of the specific claimants from whom this information was currently needed. On 13 August 1999, PAAC was provided with the names of claimants who were required to submit such information.

19. An additional level of verification was performed to determine if related claimants filed duplicate claims. This review is described in paragraph 18 of the "Report and recommendations made by the Panel of Commissioners concerning the fourth instalment of 'E4' claims" (S/AC.26/1999/18) (the "Fourth 'E4' Report").

20. Based on its review of the documents submitted and the additional information obtained, the Panel concluded that the issues presented by the sixth instalment claims had been adequately developed and that oral proceedings were not required to explore such issues further.

III. LEGAL FRAMEWORK AND VERIFICATION AND VALUATION METHODOLOGY

21. The legal framework and the verification and valuation methodology applied to the evaluation of claims in this instalment is the same as that used in earlier "E4" instalments. This framework and methodology are discussed in paragraphs 25-62 of the First "E4" Report. The Second and Fourth "E4" Reports discuss additional legal and verification and valuation issues that were encountered in those instalments of "E4" claims. These various elements of the Panel's review are not restated in this report. Instead this report makes reference to sections in the previous "E4" reports where such issues have been addressed.

22. Where the Panel encountered new issues not addressed in prior "E4" reports, the Panel developed methodologies for verifying and valuing the losses. These new issues are discussed in the text of this report. The Panel's specific recommendations on the losses asserted in this instalment and the reasons therefor are set out in the annexes to this report.

23. Before discussing the Panel's specific recommendations for compensating the sixth instalment claims, it is important to restate that the Panel's approach to the verification and valuation of these claims balances the claimant's inability always to provide best evidence against the "risk of overstatement" introduced by shortcomings in evidence. In this context, the term "risk of overstatement", defined in paragraph 34 of the First "E4" Report, is used to refer to cases in which claims contain evidentiary shortcomings that prevent their precise quantification and therefore present a risk that they might be overstated.

IV. THE CLAIMS

24. The Panel reviewed the claims according to the nature and type of loss identified. Therefore, the Panel's recommendations are set out by loss type. Reclassified losses have been dealt with in the section pertaining to the loss category into which the Panel reclassified the losses.

A. Contract

25. Three claimants in this instalment asserted loss of contract claims aggregating KD 148,710 (approximately US$514,567).

26. Claims for loss of contract in this instalment did not relate to contracts with the Government of Iraq or to contracts requiring performance in Iraq. The claims did not raise any new legal or verification and valuation issues.

27. All three loss of contract claims were for costs incurred in relation to contracts stated to have been ongoing at the time of Iraq's invasion of Kuwait. The Panel has recommended compensation for such losses where (i) the costs were not recovered as a direct result of Iraq's invasion and

occupation of Kuwait, and (ii) the claims were supported by sufficient evidence to establish the facts and circumstances of the loss asserted.

28. The Panel's approach to the compensability of contract losses is stated in prior "E4" reports and the verification and valuation methodology adopted by the Panel for loss of contract claims is discussed in paragraphs 77-84 of the First "E4" Report.

29. The Panel's recommendations on contract losses are summarized in annex II.

B. Real property

30. Twenty-nine claimants in this instalment asserted claims aggregating KD 1,571,873 (approximately US$5,439,007) for loss of real property. These claims related to damage to various owned and rented premises in Kuwait.

31. The claims for loss of real property in this instalment did not raise any new legal or verification and valuation issues. The compensability standards and the verification and valuation methodology adopted by the Panel for loss of real property claims are stated in paragraphs 89-101 of the First "E4" Report.

32. The nature of damage to the properties and the location of the affected properties in Kuwait established that the losses were a direct result of Iraq's invasion and occupation of Kuwait. Claims were either based on the actual costs incurred in repairing the properties or on estimates of such costs.

33. Most claimants submitted documents that were sufficient to establish their interest in the affected properties and the loss claimed. However, as was the case in earlier "E4" instalments, claimants generally did not exclude regular maintenance or depreciation costs from their claims. The Panel adjusted the claims to account for these costs, which would have been incurred in the normal course of business and were not a direct result of Iraq's invasion and occupation of Kuwait. Similar adjustments were made by the Panel in cases of unforced "betterment", as explained in paragraph 97 of the First "E4" Report.

34. In claims based on estimated repair costs, the Panel sought a reasonable explanation for the claimant's failure to repair or replace the affected property. Where such explanation was absent, the Panel adjusted the claim to offset the "risk of overstatement" created by this shortcoming.

35. The Panel's recommendations on real property losses are summarized in annex II.

C. Tangible property, stock, cash and vehicles

36. Tangible property losses are claimed by a majority of the sixth instalment claimants. The asserted losses, relating to stock, furniture and fixtures, equipment, vehicles and cash, aggregate KD 30,067,262 (approximately US$104,038,969).

37. With regard to the compensability and the verification and valuation of these tangible property claims, the Panel applied the approach set out in paragraphs 108-135 of the First "E4" Report.

38. The claimants in this instalment generally submitted the same type of evidence encountered by the Panel in earlier "E4" instalments in relation to claims for loss of tangible property and stock. (See Second "E4" Report, paras. 55-64.)

39. Al-Tadamon Company filed a claim for loss of furniture and fittings. The claim was based on an estimate of the "market value" of the assets. The estimate was prepared by the claimant and not by any independent third party. The claimant's audited accounts for the periods preceding Iraq's invasion of Kuwait show a zero net book value for furniture and fittings. Given this historical net book value and the lack of sufficient alternative evidence on which to value the loss, the Panel has recommended no compensation for this claim.

40. Al-Nafisy Trading Co. sought compensation for damaged furniture. The claimant supported its claim by providing copies of invoices and payment receipts for furniture purchased after the liberation of Kuwait. The claimant stated that the damaged furniture had been purchased in 1989. However, the claimant's audited accounts did not corroborate this assertion. The claimant did not provide any other evidence to establish the purchase of the assets in 1989. In view of the insufficient evidence to establish the existence of the relevant assets, the Panel has recommended no compensation for this claim.

41. Al Sumait and Abdul Karim Trading Co. W.L.L. sought compensation for loss of stock. The claimant submitted an unsigned letter from its auditors, certifying the loss of stock. However, the claimant's audited accounts for the periods following the liberation of Kuwait did not disclose any extraordinary loss of stock. On 22 July 1999, the claimant was requested to provide clarifications in relation to its claim for loss of stock and a response was received from the claimant on 21 August 1999. The Panel found that the claimant's response did not sufficiently evidence the loss claimed. In view of the evidentiary shortcomings noted, the Panel has recommended no compensation for this stock claim.

42. The Union of Agricultural Products Co-operative Society also filed a claim for loss of stock. The claimant's accounts for 1990 showed stock as an asset. However, the claimant's audited accounts for the periods prior to and subsequent to Iraq's invasion and occupation of Kuwait indicated

that the claimant did not hold any stock. The claimant also did not provide sufficient evidence to support the "roll-forward" calculation used in its stock claim. In addition, the opening stock figure stated in support of the 1990 stock-holding was inconsistent with the lack of any closing stock figure in the 1989 accounts. In view of these evidentiary shortcomings and inconsistencies, the Panel has recommended no compensation for this stock claim.

43. Boodai & Al-Bitar Furniture Decoration Trading Co., filed a tangible property claim in relation to an unlicensed furniture manufacturing workshop. The workshop was operated entirely by the claimant's partners and was shown as an investment of KD 269,063 in the claimant's audited accounts for the period ending 1 August 1990. In its statement of claim, the claimant asserted that this investment was made up of tangible property (KD 29,200), stock (KD 149,863) and goodwill (KD 90,000). The claim related to the tangible property and stock portions of this investment.

44. The claimant did not provide any accounting records in relation to the workshop. The claimant did not provide any other evidence to substantiate its assertion that the investment shown in the accounts represented items of tangible property, stock or goodwill. The tangible property claim was based on a self-generated schedule listing items of furniture. The items and values in this schedule were not supported by sufficient evidence. Similarly, the claimant did not provide sufficient evidence to support the amount of stock stated to have been held. In addition, no information was provided to establish the basis of valuation or the historical levels of stock held at this workshop.

45. The claimant submitted a witness statement, issued by a workshop employee, stating that the workshop had been completely looted and damaged during Iraq's invasion and occupation of Kuwait. However, the damage to the workshop's assets could not be reconciled with the extraordinary losses reported in the claimant's post-liberation audited accounts. Further, the claimant submitted a contract establishing the sale of the workshop and all its contents in 1992. No evidence was provided to describe what items in the workshop had been sold or the basis on which such items had been valued in 1992.

46. In view of the insufficient evidence to substantiate the claim related to the workshop, the Panel has recommended no compensation for these tangible property and stock losses.

47. A majority of the claimants seeking compensation for cash losses sought to rely on witness statements from related parties without providing further evidence to substantiate their claims. Where claims for cash losses were not supported by contemporaneous evidence establishing the possession and amount of cash held on 2 August 1990, the Panel recommended no compensation.

48. Most claimants with loss of vehicle claims were able to establish their losses by submitting copies of deregistration certificates and additional documents such as post-liberation audited accounts and witness statements that substantiated the fact and circumstances of their losses.

49. The Panel's recommendations on tangible property, stock, cash and vehicle losses are summarized in annex II.

D. Payment or relief to others

50. Four claimants in this instalment submitted claims aggregating KD 19,870 (approximately US$68,754) for payment or relief to others.

51. When reviewing claims for payment or relief to others the Panel applied the approach and verification and valuation methodology described in earlier "E4" reports. (See, for example, Second "E4" Report, paras. 70-74.) The Panel also kept in mind the Governing Council's specific observations on this matter in its decision 77 (S/AC.26/Dec.77 (1999)).

52. Tihama Al-Mona International sought compensation for emergency relief payments to employees. The claimant supported this claim by referring to an accounting entry that recognized relief payments. The accounting entry was based on a debit note issued by a related company. The debit note named some employees who received relief payments. A letter from the claimant to the related company named additional employees who received the same relief payments. No payment receipts or other documents establishing actual payment of amounts to the named employees were provided. Neither the related company's debit note nor the claimant's letter provided any details concerning the employees named, e.g., civil identification, or passport numbers. Because of the evidentiary shortcomings and inconsistencies regarding the employees paid, the fact that the claim was based on a related company transaction and the insufficiency of alternative evidence to establish actual receipt of sums by the employees, the Panel has recommended no compensation for this loss item.

53. The Panel's recommendations on the payment or relief to others claims are summarized in annex II.

E. Loss of profits

54. Nearly 90 per cent of the claimants in this instalment submitted claims aggregating KD 12,479,948 (approximately US$43,183,211) for loss of profits.

55. Four significant legal and factual issues raised by the first instalment claims are all raised in the sixth instalment claims. These issues relate to the impact and assessment of (i) benefits received under the Government of Kuwait's post-liberation debt settlement programme, (ii) windfall or exceptional profits earned by claimants in the period immediately following the liberation of Kuwait, (iii) the indemnity period

for loss of profits claims, and (iv) claims for loss of profits selectively based on profitable lines of business. The conclusions reached by the Panel in relation to these issues are set forth in paragraphs 161-193 of the First "E4" Report. The Panel has applied these conclusions in its considerations and recommendations for the loss of profits claims in this instalment.

56. The verification and valuation methodology adopted by the Panel for loss of profits claims is stated in paragraphs 194-202 of the First "E4" Report.

57. Despite several requests, many claimants in the sixth instalment did not provide annual accounts for the three fiscal years prior to and following the end of Iraq's invasion and occupation of Kuwait. The Panel noted that, in some cases, the failure to submit some accounts was sufficiently explained, for example, where the claimant had commenced trading in the period between 1987 and 1990 or where the claimant had ceased trading following Iraq's invasion and occupation of Kuwait.

58. Loss of profits claims by businesses that failed to provide a full set of annual audited accounts for the relevant periods were regarded as presenting a "risk of overstatement", unless the failure to submit the accounts was sufficiently explained.

59. Mutawa & Sarraf & Partner W.L.L. claimed for loss of profits on a construction contract. The claim was originally filed as a claim for loss of contract and was reclassified to a loss of profits claim by the Panel. The claimant did not submit sufficient evidence to establish its historical profits during the period prior to Iraq's invasion and occupation of Kuwait. The claimant also did not provide alternative evidence, or other contemporaneous documentation, sufficient to support its assertion that the contract was expected to have been completed profitably. The claimant provided copies of its correspondence with regard to negotiations to resume the contract subsequent to the liberation of Kuwait. The correspondence submitted suggested that the contract was resumed post-liberation (and at increased prices). As such, the claimant was unable to demonstrate that any loss of profits was actually suffered on the contract. The business correspondence provided (relating to periods in 1992 and 1993) was also inconsistent with assertions made by the claimant that it did not resume its business post-liberation. In view of these evidentiary shortcomings and inconsistencies, the Panel has recommended no compensation for this claim.

60. Al-Osra Al-Arabia Trading Company was established in March 1990. The claimant based its loss of profits claim on unaudited accounting records for the three-month period preceding Iraq's invasion and occupation of Kuwait. The first set of audited accounts submitted by the claimant contained material qualifications relating to the claimant's failure to maintain regular accounting records. The Panel could not rely on the unaudited accounts submitted because of the material qualifications issued

by the claimant's auditors in relation thereto. Further, because of the claimant's limited trading history, the Panel did not have sufficient evidence to establish whether the claimant actually suffered any loss of profits. In view of the insufficiency of the evidence submitted, the Panel has recommended no compensation for this claim.

61. The Panel's recommendations on loss of profits claims are summarized in annex II.

F. Receivables

62. Twenty-five claimants in this instalment asserted claims for uncollectible receivables or "bad debts" aggregating KD 2,726,708 (approximately US$9,434,976). All of these claims were for amounts owed by businesses or individuals located in Kuwait prior to Iraq's invasion.

63. As was the case in previous instalments of "E4" claims, most claimants sought compensation for debts that remained uncollected because debtors had not returned to Kuwait after liberation. The issue raised is whether the uncollected debts had become uncollectible as a direct result of Iraq's invasion and occupation of Kuwait.

64. The Panel reiterates its determination on this issue as set out in paragraphs 209-210 of the First "E4" Report, namely that claims for debts that have become uncollectible as a result of Iraq's invasion and occupation of Kuwait must demonstrate, by documentary or other appropriate evidence, the nature and amount of debt in question and the circumstances that caused the debt to become uncollectible.

65. The sixth instalment claims for uncollectible receivables were verified and valued in the manner described in paragraphs 211-215 of the First "E4" Report.

66. As discussed above, the Panel disallows claims that rely on the mere assertion that uncollected debts are ipso facto uncollectible because the debtors did not return to Kuwait. Nearly all of the claimants failed to provide evidence to demonstrate that their debtors' inability to pay was a direct result of Iraq's invasion and occupation of Kuwait. This shortcoming was brought to the attention of the claimants, in the context of the additional information requested from claimants (see para. 17 above). While a number of responses were received from claimants, none satisfied the above criteria.

67. Tariq Al-Nasrallah General Trading and Tenders Co. filed a claim in relation to goods that had been delivered under a pre-invasion contract with Kuwait's Ministry of Electricity and Water. The terms of this contract required the Ministry to pay the claimant as follows:

(a) A 15 per cent advance payment on signing the contract;

(b) A 60 per cent payment due on proof of dispatch of the goods; and

(c) The remaining 25 per cent payable on delivery of the goods.

68. The claimant provided no information as to whether it had received the 15 per cent advance payment on signing the contract. The claimant also stated that, prior to Iraq's invasion and occupation of Kuwait, the Ministry had approved payment of the 60 per cent due on dispatch. However, after the liberation of Kuwait, the Ministry refused to pay this sum. As these sums related to amounts due and payable prior to Iraq's invasion and occupation of Kuwait, the Panel reclassified this portion of the claim as a claim for receivables.

69. The Panel has recommended no compensation for the receivables claims because (a) the claimant has not established that it suffered a loss in relation to the 15 per cent advance payment; and (b) the Ministry's subsequent refusal to pay the 60 per cent due on proof of dispatch was an independent intervening event. The Panel therefore found these losses were not a direct result of Iraq's invasion and occupation of Kuwait.

70. The loss of the remaining 25 per cent, payable on delivery, was due to the claimant's inability to establish complete delivery as a direct result of Iraq's invasion and occupation of Kuwait. The Panel has recommended compensating this amount after adjusting the claim for evidentiary shortcomings related to the valuation of the goods. (This portion of the claim that has been compensated has been reported as part of the claimant's loss of stock claim.)

71. The Panel's recommendations on bad debt claims are summarized in annex II.

G. Restart costs

72. Fifteen claimants in this instalment asserted claims aggregating KD 166,440 (approximately US$575,917) for restart costs. The amounts claimed as restart costs have been reviewed using the methodology discussed in paragraphs 221-223 of the First "E4" Report and paragraphs 93-96 of the Second "E4" Report. (See also, Fourth "E4" Report, paras. 87-89.)

73. Project Management & Control Co. W.L.L. claimed, inter alia, for costs representing (i) a reward paid by the claimant company to its owner, and (ii) regular salary payments for the months of March and April 1991. The reward is stated to have been paid for efforts made by the company's owner to restore, after liberation, the company's trading contacts with private and government bodies. The Panel found that compensating the claimant for the reward payment would represent a double indemnity for the owner of the business. Further, the reward was paid pursuant to an independent business decision and was not a direct result of Iraq's invasion and occupation of Kuwait. The Panel also found that the claimant did not sufficiently establish that the regular salary payments for March

and April 1991 were incremental costs to the claimant, i.e., in excess of costs normally incurred by the claimant for this type of expense. For these reasons the Panel has recommended no compensation for this claim.

74. Arabian Engineer Electrical Co. filed a claim for interest paid on loans and overdrafts raised for a project that was cancelled as a direct result of Iraq's invasion and occupation of Kuwait. This claim was originally asserted as a claim for contract losses and was reclassified by the Panel to this loss category. The claimant sought compensation for the interest payable between 2 August 1990 and 31 December 1991, stating that interest was not payable after 31 December 1991 because the claimant participated in the Difficult Debt Settlement Program ("Program") discussed in paragraphs 162-174 of the First "E4" Report. The claimant submitted bank records setting out the interest due on the loans and overdrafts. These records clearly state that the interest would not apply if the claimant participated in the Program.

75. The Panel had found earlier that participants in the Program were not required to pay interest after 2 August 1990 in relation to debt that was purchased under the Program. (See First "E4" Report, para. 165.) The claimant's audited financial statements show the interest as payable at the end of 1991. However, as the Program was introduced after 1991, and the claimant admitted it participated in the Program, the Panel found that the claimant's participation suggested that the amount claimed was never paid. The claimant did not submit documentary evidence that showed actual payment of the interest. Consequently, the Panel has recommended no compensation for this amount.

76. Jasim Mohamad Abdul-Rahman Al-Bahar W.L.L. filed a claim in relation to sums paid in 1993 to two senior employees. The sums are stated to have been awards for the employees' loyalty to the company during the period of Iraq's invasion and occupation of Kuwait. The Panel found that these payments made in 1993 were the result of an independent business decision. They were neither relief payments (as claimed) nor payments that otherwise arose as a direct result of Iraq's invasion and occupation of Kuwait. Accordingly, the Panel has recommended no compensation for these payments.

77. Middle East Chemical Manufacturing Company K.S.C. claimed for costs incurred in recruiting a new general manager after its previous general manager refused to rejoin the company subsequent to the liberation of Kuwait. The claimant did not provide any evidence to establish that the previous general manager's refusal to rejoin the claimant company was a direct result of Iraq's invasion and occupation of Kuwait.

78. The same claimant also sought compensation for a portion of regular salary payments made between November 1991 and February 1992. The claimant stated that the portion of salary claimed represented the cost of cleaning operations carried out by regular staff. The Panel found that these costs represented regular salary payments made in the normal course of business. The Panel also found that the claimant had not provided sufficient evidence

to establish that the amount claimed represented an incremental cost to the claimant, incurred as a direct result of Iraq's invasion and occupation of Kuwait.

79. In view of the above, the Panel has recommended no compensation for these two amounts claimed by Middle East Chemical Manufacturing Company K.S.C.

80. The Panel's recommendations on restart costs are summarized in annex II.

H. Other losses

81. Nineteen claimants in this instalment asserted claims aggregating KD 754,069 (approximately US$2,609,235) for other losses.

82. A few claimants have sought compensation for losses suffered as a result of their receipt of cancelled Kuwaiti dinar currency notes. These notes were received by claimants who continued to operate during Iraq's occupation of Kuwait. The Panel recommends compensation for these claims for the reasons stated in paragraphs 98-99 of the Second "E4" Report.

83. In relation to claims for losses incurred when claimants were forced to accept Iraqi dinars for products sold during Iraq's invasion and occupation of Kuwait, at an exchange rate of one Iraqi dinar to one Kuwaiti dinar, the Panel applied its recommendations stated in paragraphs 100-102 of the Second "E4" Report.

84. Abdul Rahman Mohamed Al-Bahar & Sons W.L.L. claimed for legal fees paid to obtain certain permits from courts in Kuwait. The permits allowed the claimant to open apartments that had been left locked by tenants fleeing Kuwait during Iraq's invasion and occupation of Kuwait. The Panel found that it was reasonable for the claimant to incur such legal fees to gain possession of the premises, so that they could be re-let and hence mitigate the claimant's losses. The Panel concurred with the finding of the category "E1" Panel of Commissioners that proven expenses for such purposes should be compensated. (See "Report and recommendations made by the Panel of Commissioners concerning the third instalment of 'E1' claims" S/AC.26/1999/13, paras. 439-441.) Further, this Panel also found that such legal fees represent an incremental cost incurred as a direct result of Iraq's invasion and occupation of Kuwait. For the above reasons, the Panel has recommended compensation for this loss.

85. Jasim Mohamad Abdul-Rahman Al-Bahar W.L.L. filed a claim in relation to losses described as open orders and miscellaneous expenses. The claimant has provided no documents that explain these losses or how these expenses were a direct result of Iraq's invasion and occupation of Kuwait. The Panel has recommended no compensation for the amounts claimed in view of the insufficient evidence provided.

86. The Arab Group for Equipment and Construction received a concrete pump as consignment stock in March 1990. The price of the equipment was treated as a liability in the claimant's 1990 financial statements as the machine was meant to be sold within six months and the proceeds used to pay for the equipment. However, the machine was stolen as a direct result of Iraq's invasion and occupation of Kuwait. The claimant submitted a payment receipt to establish that in 1993 it subsequently paid KD 120,766 to the supplier for the machine. An amount of KD 100,000 was included as an extraordinary loss in the claimant's audited accounts for 1991. As this claimant incurred the actual loss that was a direct result of Iraq's invasion and occupation of Kuwait, the Panel recommends compensation in full for the KD 100,000 claimed. The difference between the amount paid and the amount claimed is due to the exchange rates used by the claimant.

87. Mawarid Trading Co. W.L.L. filed a claim for salary payments made during the period of Iraq's invasion and occupation of Kuwait. The claimant was in the process of setting up business operations immediately prior to Iraq's invasion of Kuwait. As the claimant had not commenced trading on 2 August 1990, the salary payments were in the nature of start-up expenses. The Panel reclassified this claim to the category of other losses. The claimant provided sufficient evidence to establish payment of the expenses and the Panel has recommended compensating the claim for such costs. The Panel's recommended award has been adjusted to offset the "risk of overstatement" associated with the inability to determine when such start-up expenses would become regular operating costs recoverable from operating revenues.

88. Middle East Chemical Manufacturing Company K.S.C. filed a claim for royalties that it was due to pay. The agreement under which these payments were stated to have been due did not refer to any royalties. However, royalty payments were referred to in a letter sent to the claimant by the other party to this agreement. The letter stated that a sum of 5,500 pound sterling was payable under an invoice dated August 1990 and a further 4,500 pound sterling was payable under an invoice dated July 1991. The letter did not identify the periods in relation to which these royalty payments were due. No other evidence was provided to establish the basis on which such royalty amounts had been computed. Further, the documents submitted suggested that the royalty amounts claimed had not actually been paid by the claimant. The claimant submitted no other evidence to establish that it actually suffered a loss as a direct result of Iraq's invasion and occupation of Kuwait, in relation to the amount claimed. In view of the above, the Panel has recommended no compensation for this amount.

89. Claims for "other losses" that have been dealt with in prior "E4" instalments were reviewed in the manner stated in earlier "E4" reports. (See, for example, the Second "E4" Report, para. 108 dealing with the treatment of prepaid expenses.)

90. The Panel's recommendations on other losses are summarized in annex II.

V. OTHER ISSUES

A. Applicable dates for currency exchange rate and interest

91. In relation to the applicable dates for currency exchange rate and interest, the Panel has adopted the approach discussed in paragraphs 226-233 of the First "E4" Report.

B. Claim preparation costs

92. The Panel has been informed by the Executive Secretary of the Commission that the Governing Council intends to resolve the issue of claim preparation costs in the future. Accordingly, the Panel has made no recommendation with respect to compensation for claim preparation costs.

VI. RECOMMENDED AWARDS

93. Based on the foregoing, the awards recommended by the Panel for claimants in the sixth instalment of "E4" claims are set out in annex I to this report. The underlying principles behind the Panel's recommendations on claims in this instalment are summarized in annex II to this report. All sums have been rounded to the nearest KD and therefore the amounts may vary from the amount stated on Form E by 1 KD.

Geneva, 10 December 1999

(Signed) Robert R. Briner
Chairman

(Signed) Alan J. Cleary
Commissioner

(Signed) Lim Tian Huat
Commissioner

[ENGLISH ONLY]

Annex I

Recommended awards for sixth instalment of "E4" claims

Reported by UNSEQ and UNCC claims numbers claimant name

UNSEQ claim No.	UNCC claim No.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00355	4003475	Mace Engineering W.L.L.	18,791	16,186	12,020	41,592
E-00356	4003542	Project Management & Control Co. W.L.L.	95,712	94,712	10,442	36,131
E-00357	4003543	Kaisar Trading Company	26,131	26,131	24,904	86,133
E-00358	4003544	Mohammad A. Shuaib and Brothers Trading Company W.L.L.	451,305	395,304	317,396	1,098,256
E-00359	4003545	Jamalco Trading & Contracting Shipping Service Co.	45,815	45,357	15,165	52,474
E-00360	4003511	Al Qasas and Al Shaigy for Furnishing Co.	244,417	242,617	77,677	268,632
E-00361	4003512	Malek Brothers Limited Company	365,093	364,093	175,620	607,544
E-00362	4003513	Abdulwahab Al Khoder & Sons General Trading Company	149,828	148,328	36,742	126,858
E-00363	4003514	Al-Tasami Restaurants and Cafe Company	110,942	109,852	21,242	73,502
E-00364	4003515	Al Sumait & Abdul Karim Trading Co. W.L.L.	254,103	253,103	42,255	145,751
E-00365	4003516	Tihama Al Mona International for Advertising, Market Research, Public Relations	49,151	44,070	21,516	74,428
E-00366	4003517	Al-Rawdah Paper & Nylon Products Plate Carton Company	91,686	91,686	71,816	248,264
E-00367	4003518	Sadeer Jewellery Company	234,659	233,159	203,545	704,308
E-00368	4003519	Al-Tadamon Company	122,657	108,961	26,152	90,491
E-00369	4003520	Commercial Co-ordination Center	51,395	50,571	20,937	72,413
E-00370	4003521	Al Kulaib Group for Mechanical and Electrical Works Company, W.L.L.	78,302	76,552	42,483	147,000
E-00371	4003522	Kuwait Medical Centre Co.	113,178	99,093	7,998	27,667
E-00372	4003523	Mukamis Stores Co.	577,381	576,131	446,868	1,546,256
E-00373	4003524	Gulf Travel Agency Co.	26,573	24,073	2,030	7,018
E-00374	4003525	Abdul Rahman Mohamed Al-Bahar & Sons (W.L.L.)	218,641	215,672	7,704	26,657

UNSEQ claim No.	UNCC claim No.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00375	4003526	Trading Society Al-Khalid	36,255	36,255	29,781	103,048
E-00376	4003527	Al-Sabah Garage & Car Washing Station Co.	8,244	8,244	5,546	19,190
E-00377	4003528	Taima'a Trading and Contracting Co.	68,524	66,024	59,354	205,377
E-00378	4003529	United Glass Co.	1,310,674	1,188,331	916,784	3,172,263
E-00379	4003530	First Trading and Contracting Group	305,764	303,614	206,620	714,824
E-00380	4003531	Barakat and Ibrahim Trading Company	825,409	824,209	518,729	1,794,364
E-00381	4003532	Mutawa & Sarraf & Partner W.L.L.	35,005	35,005	0	0
E-00382	4003533	Boroslly Int. for General Trading and Contracting	1,444,678	1,439,678	1,077,063	3,724,861
E-00383	4003534	New Modern Jewellery Company	1,922,414	1,921,414	1,603,521	5,548,211
E-00384	4003535	Al Rashed Trading Industrial and Contracting Co. W.L.L.	64,888	63,888	10,878	37,640
E-00385	4003536	Mohammad A. Shuaib and Sons Trading Company W.L.L.	108,732	95,240	88,200	305,190
E-00386	4003537	Hayat Marble Company Limited / Abdel Samed Abdullah Mairafi	88,015	86,015	49,364	170,702
E-00387	4003538	Fahad Al-Jassar Sons General Trading & Contracting Co. (W.L.L.)	300,210	299,460	237,534	821,917
E-00388	4003539	Optica House / Nazar Abdulrahman Naccash and Partner W.L.L.	49,554	49,104	33,394	115,548
E-00389	4003540	Electrical Contracting Co. Ltd.	873,883	871,383	495,490	1,714,498
E-00390	4003541	Al-Judaimi Trading & Contracting Co. W.L.L.	782,993	736,373	415,372	1,437,150
E-00391	4003476	Al Ramly Limited W.L.L.	40,500	40,500	22,750	78,610
E-00392	4003477	Burgan Contracting Company W.L.L.	257,522	254,522	75,408	260,927
E-00393	4003478	Al-Sabih Engineering & Trading Co. / Fahad & Khalid Al-Sabih	285,558	285,558	74,058	256,256
E-00394	4003479	Al Sawan Trading, Transport and Tourism Co.	151,050	151,050	127,244	439,840
E-00395	4003480	Bahjat Jewellers Company W.L.L.	349,274	348,139	262,668	908,886
E-00396	4003481	Al Waroud Showroom Boutique Co. W.L.L.	247,884	246,884	147,380	509,786

UNSEQ claim No.	UNCC claim No.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00397	4003482	El Seedawi Laboratories Co.	836,872	836,872	686,874	2,372,915
E-00398	4003483	Green Saloon Sweets Co.	110,247	109,287	65,261	225,567
E-00399	4003484	Prime Materials Co.	34,516	30,463	21,231	73,464
E-00400	4003485	Al Homaidan & Al Ausaimi for Animality Wealth Company	376,958	375,458	199,412	689,966
E-00401	4003486	Oasis Catering Services Co. W.L.L.	273,801	272,301	130,780	452,526
E-00402	4003487	Arabian Engineer Electrical Co.	620,914	600,914	97,622	337,792
E-00403	4003488	Al Rasheed Supermarket Co. / Souq Al-Rasheed Co.	128,210	127,210	63,469	219,616
E-00404	4003489	Boum Trading & General Contracting Co.	154,349	154,349	123,236	426,088
E-00405	4003490	Sajo Co. Abdullah Mohamed Al-Saad and Partners	345,812	345,812	230,038	795,925
E-00406	4003491	Al-Sour for Cleaning and Maintenance Contracting Company	42,078	42,078	35,600	123,122
E-00407	4003492	Al Tashyeed Real Estate Co. W.L.L.	334,834	330,834	212,000	733,564
E-00408	4003493	Rashid Abdullah Al-Hunaidi & Brother General Trading & Contracting Co.	183,523	182,523	157,679	545,602
E-00409	4003494	Wahran Trading Company W.L.L. / Ahmed Abdul Razak Al Zayed & Naim A. Fattah Abu Shanab	447,483	447,483	342,023	1,183,471
E-00410	4003495	Al Noun Trading Company	311,027	307,027	77,872	269,453
E-00411	4003496	Al-Jamhoor Buxly Paints and Associates Company	1,378,658	1,257,107	379,088	1,311,723
E-00412	4003497	Al Kulaib International Construction Company / Abdul-Aziz Abdulla Al Mushari Al Kulaib & Partners, W.L.L.	129,843	128,093	31,162	107,827
E-00413	4003498	Kuwait Advanced Technology Co. W.L.L.	96,812	96,812	92,188	318,265
E-00414	4003546	Silver Chain Trading & General Contracting W.L.L.	293,189	292,189	84,448	291,640
E-00415	4003547	Albydai Restaurant & Catering Services Co. (W.L.L.)	216,301	214,301	76,163	263,518
E-00416	4003548	Al Khateefi Trading Co. W.L.L.	313,325	311,325	178,697	618,235
E-00417	4003549	Green Desert for Food Stuff Company, W.L.L.	42,046	41,046	5,053	17,484
E-00418	4003550	The City International Exchange Co. W.L.L.	159,913	159,013	31,758	109,889
E-00419	4003551	Al-Osra Al-Arabia Trading Company	37,990	37,990	0	0

UNSEQ claim No.	UNCC claim No.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00420	4003552	Al-Nafisy Trading Co.	140,390	139,640	18,606	64,381
E-00421	4003553	Kuwait Industrial Refinery Maintenance & Engineering Company - S.A.K. (Closed)	1,287,921	1,278,921	1,033,208	3,575,114
E-00422	4003554	Naser Sayer & Co. W.L.L.	33,703	32,203	30,804	106,584
E-00423	4003555	Kuwait Paper Products Manufacturing Co. W.L.L.	478,767	477,067	119,489	413,457
E-00424	4003577	Bizarre Decoration Consultants W.L.L.	105,096	102,096	55,921	193,498
E-00425	4003578	Dana Agriculture Company	225,505	224,505	151,924	525,430
E-00426	4003579	Hygiene Products Industries	641,193	637,907	173,607	600,216
E-00427	4003580	The Arabian Holland Hatchery Company W.L.L.	133,400	132,400	45,852	158,444
E-00428	4003581	Jasim Mohamad Abdul-Rahman Al-Bahar W.L.L.	257,830	252,830	71,806	248,464
E-00430	4003583	Al Rashed Travel Co. W.L.L.	74,356	73,356	51,554	178,236
E-00431	4003584	Al-Amarat Al-Jadedah Trading and Contracting Co. W.L.L.	119,012	119,012	28,276	97,734
E-00432	4003585	Ibrahim Yousif Al Raqam & Partner for General Trading	2,271,039	2,027,763	1,632,552	5,648,823
E-00433	4003586	Tariq Al-Nasrallah General Trading and Tenders Co.	433,117	431,867	80,995	280,233
E-00435	4003597	Arab Group for Equipment and Construction	337,931	334,931	172,398	596,146
E-00436	4003598	Arab Real Estate Company	180,811	179,748	41,753	144,474
E-00437	4003599	Financial Activity Company	155,533	152,247	0	0
E-00438	4003600	Moon and Star Tyres and Spare Parts Co. W.L.L.	102,009	100,509	61,761	213,661
E-00439	4003601	Faddan General Trading & Cont. Co. W.L.L. / Barges Hamoud Al Barges & Partners	484,319	484,319	274,377	949,401
E-00440	4003602	Al Addan General Trading & Aggregate Co. W.L.L.	152,379	136,812	62,208	215,179
E-00441	4003603	Anouf Trading Company W.L.L.	74,316	72,937	10,069	34,841
E-00442	4003604	Al-Tamasuk General Trading & Contracting Co. / Mohamed Fahed Awaida Al Ajami & Partners Co.	33,871	31,321	19,734	68,103
E-00443	4003605	Al Usaimi Trading Co. W.L.L.	15,360	14,345	7,877	27,248
E-00444	4003606	Golden Dalla Household Company	556,983	554,388	294,488	1,018,834

UNSEQ claim No.	UNCC claim No.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00445	4003607	M/s. Umm Al-Aish Transport Company	87,994	86,900	14,600	50,519
E-00446	4003608	Metal Products Company	114,937	106,567	102,304	353,993
E-00447	4003556	Yousuf Al Zabin Sons Trading Co. W.L.L.	874,713	872,313	722,457	2,497,660
E-00448	4003557	Almayy Fashion Co. W.L.L.	96,950	96,200	83,665	289,198
E-00449	4003558	Alfailaq General Trading and Contracting Company	930,592	826,304	328,471	1,136,484
E-00450	4003559	Silk Road Company for General Trading & Construction	82,650	82,650	27,185	94,066
E-00451	4003560	M/s. Al Safa Trading & Contracting Co. W.L.L.	43,875	42,875	11,600	40,138
E-00452	4003561	Kuwait Company for Process Plant Construction & Contracting K.S.C.	62,575	59,325	36,162	125,128
E-00453	4003562	Mawarid Trading Co. W.L.L.	116,434	115,434	86,905	300,709
E-00454	4003563	General Contracting House Ltd.	174,983	174,983	109,011	377,201
E-00455	4003564	Dan Trading & Contracting Co. / Fouad Fawzi Al-Khadra & Partner W.L.L.	32,359	31,609	6,072	20,985
E-00456	4003565	Savings and Credit Bank	1,851,120	1,653,845	1,645,704	5,689,414
E-00458	4003567	Middle East Chemical Manufacturing Company K.S.C.	160,964	159,661	80,056	277,010
E-00459	4003568	Al-Khamis for Refrigeration Company / Abdullah Madhi Al-Kamis & Partners W.L.L.	55,377	53,377	40,917	141,530
E-00461	4003570	Remal Al Jahra General Contracting Co. / Ibrahim Hussain Malek Hussain & Partners W.L.L.	226,888	225,888	178,485	617,595
E-00462	4003571	Farooq Alawadi for Textiles, Import & Export Co.	24,101	24,101	0	0
E-00463	4003572	Al Riyash Trading Company W.L.L.	75,268	74,268	50,786	175,730
E-00464	4003573	Dhefaf Al-Kuwait for General Trading & General Contracting	100,519	99,769	45,934	158,938
E-00465	4003574	Mealem Alkuwait for General Trading & Contracting Co. W.L.L.	129,193	118,150	60,112	207,342
E-00466	4003575	Gharabally and Hankeer Trading Company	192,045	190,045	14,330	49,465
E-00467	4003576	Kuwait Economic Society	10,628	10,628	5,964	20,637

UNSEQ claim No.	UNCC claim No.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00468	4003588	Arabian Balkan Tourism & Travel Co.	12,464	10,430	5,000	17,301
E-00469	4003589	The Union of Agricultural Co-operative Societies	50,418	48,918	24,196	83,607
E-00470	4003590	Al Qahtani & Sarkis for Construction Materials Co. / Hussain A. J. Al-Qahtani & Partner	95,616	94,116	25,696	88,632
E-00471	4003591	Bridgestone Tire Distribution Co. W.L.L.	2,831,988	2,566,934	1,418,417	4,900,169
E-00472	4003592	Nooran Shopping Center Co.	650,152	648,152	77,512	268,020
E-00473	4003593	Al Marsa Trading and Contraction	72,829	60,038	44,881	155,298
E-00474	4003594	Kuwait Pioneer Company W.L.L. / Ismail Ahamed Al Mosawi	39,329	38,079	16,699	57,670
E-00475	4003595	Construction Material Centre Co., W.L.L.	234,541	234,541	172,485	596,522
E-00476	4003596	The Commercial & Real Estate Company K.S.C.	861,868	803,615	428,671	1,478,732
E-00477	4003644	Farwania Travel Company	109,965	108,965	30,645	105,950
E-00478	4003645	Nasser Al Hamlan General Trading & Contracting Co. W.L.L.	270,555	270,555	138,536	478,866
E-00479	4003646	Rolco Buildings and Roads Cleaning Co. / Abdullah Ghazi Al Mutairi and Co.	172,601	172,601	94,972	328,623
E-00480	4003647	Boodai & Al-Bitar Furniture Decoration Trading Co.	443,631	442,131	138,862	479,704
E-00481	4003648	Al Sahara Commercial Company / Ibrahim Abbas Abu Rumanah and Partners	477,892	477,572	218,479	755,028
E-00482	4003649	East Arabia Trading & Contracting Co. W.L.L.	19,296	18,296	18,296	63,308
E-00483	4003650	Al-Abraj for Translation and Publishing Co.	12,078	11,078	9,298	32,173
E-00484	4003651	Steamco Shipping Agencies	119,315	116,815	57,157	197,575
E-00485	4003652	The Kuwaiti Amani Trading & Contraction Co.	78,345	78,345	42,082	145,528
E-00486	4003653	Al-Boom for Diving & Marine Equipment Co.	138,271	116,901	92,980	321,659
E-00487	4003654	Sports Sarris Palace Co.	864,335	771,696	480,415	1,662,336
E-00488	4003655	Al Danna Marine and Contracting Company	28,255	27,255	1,838	6,360
E-00489	4003656	Abdulhadi Al-Mailem Trading Co. W.L.L.	1,534,817	1,377,907	865,187	2,987,237

UNSEQ claim No.	UNCC claim No.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00490	4003657	Ahmed Yousef Abdulhadi Almailem & Bros. Co. W.L.L.	2,227,068	1,934,928	1,530,964	5,296,504
E-00491	4003658	Jashanmal & Partners Company W.L.L.	824,352	818,352	572,838	1,982,030
E-00492	4003659	Al-Hoda Kuwaiti Co. W.L.L.	1,089,541	1,083,648	310,935	1,075,652
E-00493	4003660	Mohammed Al Wazzan & Partners Store Co. W.L.L.	1,388,682	1,246,456	906,057	3,134,099
E-00495	4003662	South United Arab Company	174,234	173,754	112,765	390,110
E-00496	4003663	Kuwait Aircraft Engineers & Pilot Association	35,613	35,238	26,158	90,512
E-00497	4003664	Faraj Al Ajeel & Co.	190,256	187,256	109,148	377,655
E-00498	4003665	Al-Tawakol Jewellery Company W.L.L.	559,428	559,428	261,477	903,285
E-00500	4003667	Kuwait Glass Fiber Reinforced Plastic Products Company K.S.C. (Closed) Under Liquidation	1,040,336	1,037,336	524,908	1,816,291
TOTAL			50,138,568	47,934,880	28,210,837	97,566,794

*/ The UNSEQ No. is the provisional claim number assigned to each claim by PAAC.

**/ The "Net amount claimed" is the original amount claimed less amounts claimed for claim preparation costs and interest. The Panel has made no recommendation with regard to these items.

[ENGLISH ONLY]

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mace Engineering W.L.L.
UNCC claim number: 4003475
UNSEQ number: E-00355

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	12,020	12,020	Claim recommended in full.
Loss of profits	4,166	0	Claim adjusted to reflect historical results.
TOTAL	16,186	12,020	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	1,605	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Project Management & Control Co. W.L.L.
UNCC claim number:	4003542
UNSEQ number:	E-00356

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	12,117	9,694	Claim reclassified to loss of tangible property and vehicles. Tangible property claim adjusted for failure to repair/replace.
Loss of vehicles	25	0	Insufficient evidence to substantiate claim.
Loss of profits	49,770	748	Original payment or relief to others claim reclassified to loss of profits. Claim adjusted to reflect historical results and for windfall profits.
Restart costs	32,800	0	See paragraph 73 of the report.
TOTAL	94,712	10,442	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kaisar Trading Company
UNCC claim number: 4003543
UNSEQ number: E-00357

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	21,223	21,223	Original tangible property claim reclassified to loss of stock. Stock claim recommended in full.
Loss of profits	4,908	3,681	Claim adjusted for evidentiary shortcomings.
TOTAL	26,131	24,904	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mohammad A. Shuaib and Brothers Trading Company W.L.L.
UNCC claim number: 4003544
UNSEQ number: E-00358

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	78,153	50,800	Original tangible property claim reclassified to loss of stock and vehicles. Stock claim adjusted for obsolescence.
Loss of vehicles	23,228	21,101	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	193,228	149,045	Claim adjusted to reflect historical results.
Bad debts	4,245	0	Original loss of cash claim reclassified to other loss not categorised and loss of receivables. Insufficient evidence to substantiate claim for receivables.
Other loss not categorised	96,450	96,450	Claim recommended in full.
TOTAL	395,304	317,396	

Interest	56,001	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Jamalco Trading & Contracting Shipping Service Co.
UNCC claim number: 4003545
UNSEQ number: E-00359

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of vehicles	45,357	15,165	Original tangible property claim reclassified to loss of vehicles. Claim adjusted to reflect M.V.V. Table values. "Non-M.V.V." vehicles adjusted as per paragraph 37 of the report.
TOTAL	45,357	15,165	

Claim preparation costs	458	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Qasas and Al Shaigy for Furnishing Co.
UNCC claim number: 4003511
UNSEQ number: E-00360

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	13,183	10,546	Restart of business claim reclassified to loss of real property. Claim adjusted for maintenance.
Loss of tangible property	3,059	3,059	Claim reclassified to loss of tangible property and stock. Tangible property claim recommended in full.
Loss of stock	200,895	50,680	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	25,480	13,392	Claim adjusted for evidentiary shortcomings and to restrict period of loss to 12 months.
TOTAL	242,617	77,677	

Claim preparation costs	1,800	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Malek Brothers Limited Company
UNCC claim number: 4003512
UNSEQ number: E-00361

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	2,648	1,979	Claim reclassified to loss of tangible property, stock, vehicles and other loss not categorised. Tangible property claim adjusted for maintenance.
Loss of stock	333,366	151,662	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	6,272	3,000	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	15,807	15,807	Claim recommended in full.
Other loss not categorised	6,000	3,172	Claim adjusted for evidentiary shortcomings.
TOTAL	364,093	175,620	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Abdulwahab Al Khoder & Sons General Trading Company
UNCC claim number: 4003513
UNSEQ number: E-00362

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	72,869	0	Original tangible property claim reclassified to loss of stock and vehicles. Insufficient evidence to substantiate stock claim.
Loss of vehicles	19,275	11,459	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	56,184	25,283	Claim adjusted for evidentiary shortcomings.
TOTAL	148,328	36,742	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Tasami Restaurants and Cafe Company
UNCC claim number:	4003514
UNSEQ number:	E-00363

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	41,141	21,242	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	3,179	0	Insufficient evidence to substantiate claim.
Loss of profits	65,532	0	Insufficient evidence to substantiate claim.
TOTAL	109,852	21,242	

Claim preparation costs	1,090	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Sumait & Abdul Karim Trading Co. W.L.L.
UNCC claim number: 4003515
UNSEQ number: E-00364

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	3,500	189	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted to reflect net book value.
Loss of stock	174,819	0	Insufficient evidence to substantiate claim. See paragraph 41 of the report.
Loss of profits	74,784	42,066	Claim adjusted to restrict the period of loss to 12 months and for windfall profits.
TOTAL	253,103	42,255	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of 'E4' claims

Reported by claimant name and category of loss

Claimant's name: Tihama Al Mona International for Advertising, Market Research, Public Relations
UNCC claim number: 4003516
UNSEQ number: E-00365

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	16,548	15,422	Original restart claim reclassified to loss of tangible property. Claim adjusted for depreciation.
Payment or relief to others	10,122	0	See paragraph 52 of the report.
Loss of profits	17,400	6,094	Claim adjusted to restrict the period of loss to 10 months and to reflect historical results.
TOTAL	44,070	21,516	

Claim preparation costs	5,081	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Rawdah Paper & Nylon Products Plate Carton Company

UNCC claim number: 4003517

UNSEQ number: E-00366

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	56,001	50,401	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence.
Loss of profits	35,685	21,415	Claim adjusted to restrict the period of loss to 12 months and for windfall profits.
TOTAL	91,686	71,816	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Sadeer Jewellery Company
UNCC claim number:	4003518
UNSEQ number:	E-00367

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	260	260	Claim reclassified to loss of tangible property, stock and cash. Tangible property claim recommended in full.
Loss of stock	218,368	193,366	Claim adjusted for historical obsolescence.
Loss of cash	200	0	Insufficient evidence to substantiate claim.
Loss of profits	14,331	9,919	Claim adjusted to reflect historical results and to restrict period of loss to 7 months.
TOTAL	233,159	203,545	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Tadamon Company
UNCC claim number:	4003519
UNSEQ number:	E-00368

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	6,000	0	Claim reclassified to loss of tangible property and stock. See paragraph 39 of the report.
Loss of stock	27,978	15,349	Stock claim adjusted for obsolescence and evidentiary shortcomings. Goods in transit claim adjusted for obsolescence.
Loss of profits	53,376	10,803	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	18,091	0	Insufficient evidence to substantiate claim.
Other loss not categorised	3,516	0	See paragraph 89 of the report.
TOTAL	108,961	26,152	

Claim preparation costs	310	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	13,386	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Commercial Co-ordination Center
UNCC claim number:	4003520
UNSEQ number:	E-00369

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	15,620	6,232	Original tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	6,518	5,380	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	12,433	9,325	Claim adjusted for windfall profits.
Bad debts	16,000	0	Insufficient evidence to substantiate claim.
TOTAL	50,571	20,937	

Claim preparation costs	824	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Kulaib Group for Mechanical and Electrical Works Company, W.L.L.
UNCC claim number: 4003521
UNSEQ number: E-00370

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of vehicles	45,688	20,855	Original loss of tangible property claim reclassified to loss of vehicles. Claim adjusted to reflect M.V.V. Table values.
Loss of profits	30,864	21,628	Claim adjusted to reflect historical results.
TOTAL	76,552	42,483	

Claim preparation costs	1,750	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Medical Centre Co.
UNCC claim number: 4003522
UNSEQ number: E-00371

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	3,900	3,120	Claim adjusted for failure to repair/replace.
Loss of profits	93,089	2,774	Claim adjusted to restrict the period of loss to nine months, to reflect historical results and for evidentiary shortcomings.
Restart costs	2,104	2,104	Claim for payment or relief to others reclassified to restart costs. Claim recommended in full.
TOTAL	99,093	7,998	

Claim preparation costs	615	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	13,470	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mukamis Stores Co.
UNCC claim number: 4003523
UNSEQ number: E-00372

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	11,374	8,178	Original tangible property and restart claims reclassified to loss of tangible property, stock and cash. Tangible property claim adjusted for evidentiary shortcomings and maintenance.
Loss of stock	561,838	438,690	Claim adjusted for stock build-up and obsolescence.
Loss of cash	2,919	0	Insufficient evidence to substantiate claim.
TOTAL	576,131	446,868	

Claim preparation costs	1,250	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Gulf Travel Agency Co.
UNCC claim number:	4003524
UNSEQ number:	E-00373

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	277	207	Claim adjusted for depreciation.
Loss of profits	8,376	1,823	Claim adjusted to reflect historical results and to restrict the period of loss to ten months.
Bad debts	15,420	0	Insufficient evidence to substantiate claim.
TOTAL	24,073	2,030	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Abdul Rahman Mohamed Al-Bahar & Sons (W.L.L.)
UNCC claim number: 4003525
UNSEQ number: E-00374

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	5,000	4,000	Claim reclassified to loss of real property and other loss not categorised. Real property claim adjusted for maintenance.
Loss of tangible property	2,380	1,904	Claim reclassified to loss of tangible property and vehicles. Tangible property claim adjusted for failure to repair/replace.
Loss of vehicles	750	300	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	206,042	0	Claim adjusted to reflect historical results.
Other loss not categorised	1,500	1,500	Claim recommended in full. See paragraph 84 of the report.
TOTAL	215,672	7,704	

Claim preparation costs	2,969	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Trading Society Al-Khalid
UNCC claim number:	4003526
UNSEQ number:	E-00375

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	219	206	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation.
Loss of stock	12,640	11,376	Claim adjusted for obsolescence.
Loss of vehicles	11,700	11,700	Claim recommended in full.
Loss of profits	11,696	6,499	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	36,255	29,781	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Sabah Garage & Car Washing Station Co.
UNCC claim number:	4003527
UNSEQ number:	E-00376

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	1,850	1,480	Original other loss not categorised claim reclassified to loss of tangible property. Claim adjusted for maintenance.
Loss of profits	6,394	4,066	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	8,244	5,546	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Taima'a Trading and Contracting Co.
UNCC claim number:	4003528
UNSEQ number:	E-00377

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	1,428	1,428	Claim reclassified to loss of tangible property and stock. Tangible property claim recommended in full.
Loss of stock	64,362	57,926	Claim adjusted for obsolescence.
Loss of cash	234	0	Original other loss not categorised claim reclassified to loss of cash. Insufficient evidence to substantiate claim.
TOTAL	66,024	59,354	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	United Glass Co.
UNCC claim number:	4003529
UNSEQ number:	E-00378

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	360,160	337,595	Claim adjusted for depreciation and maintenance.
Loss of tangible property	366,821	366,821	Claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim recommended in full.
Loss of stock	399,772	209,368	Claim adjusted for stock build-up and obsolescence.
Loss of cash	15,628	0	Insufficient evidence to substantiate claim.
Loss of vehicles	3,600	3,000	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	42,350	0	Claim adjusted to reflect historical results.
TOTAL	1,188,331	916,784	

Claim preparation costs	4,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	117,843	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: First Trading and Contracting Group
UNCC claim number: 4003530
UNSEQ number: E-00379

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	5,789	5,789	Claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim recommended in full.
Loss of stock	269,768	187,983	Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. Goods in transit claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	5,226	0	Insufficient evidence to substantiate claim.
Loss of vehicles	2,450	1,500	Claim adjusted to M.V.V. Table values.
Loss of profits	11,348	11,348	Claim recommended in full.
Bad debts	9,033	0	Insufficient evidence to substantiate claim.
TOTAL	303,614	206,620	

Claim preparation costs	2,150	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Barakat and Ibrahim Trading Company
UNCC claim number:	4003531
UNSEQ number:	E-00380

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	46,454	30,902	Claim reclassified to loss of tangible property, stock and cash. Tangible property claim adjusted for evidentiary shortcomings, depreciation and failure to repair/replace.
Loss of stock	682,551	437,940	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	16,052	0	Insufficient evidence to substantiate claim.
Loss of profits	79,152	49,887	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	824,209	518,729	

Claim preparation costs	1,200	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Mutawa & Sarraf & Partner W.L.L.
UNCC claim number:	4003532
UNSEQ number:	E-00381

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	35,005	0	Loss of contracts claim reclassified to loss of profits. See paragraph 59 of the report.
TOTAL	35,005	0	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Boroslly Int. for General Trading and Contracting
UNCC claim number:	4003533
UNSEQ number:	E-00382

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	72,491	39,870	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for failure to repair/replace and for evidentiary shortcomings.
Loss of stock	1,162,311	854,354	Claim adjusted for stock build-up and obsolescence.
Loss of profits	204,876	182,839	Claim adjusted to reflect historical results and to restrict period of loss to 12 months.
TOTAL	1,439,678	1,077,063	

Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: New Modern Jewellery Company
UNCC claim number: 4003534
UNSEQ number: E-00383

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	1,845,250	1,568,462	Original tangible property claim reclassified to loss of stock. Claim adjusted for evidentiary shortcomings.
Loss of profits	76,164	35,059	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	1,921,414	1,603,521	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Rashed Trading Industrial and Contracting Co. W.L.L.
UNCC claim number: 4003535
UNSEQ number: E-00384

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	350	280	Original tangible property claim reclassified to stock and vehicles. Original other loss not categorised claim reclassified to loss of tangible property and restart costs. Tangible property claim adjusted for maintenance.
Loss of stock	14,680	5,743	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of vehicles	4,000	4,000	Claim recommended in full.
Loss of profits	44,003	0	Claim adjusted to reflect historical results.
Restart costs	855	855	Claim recommended in full.
TOTAL	63,888	10,878	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mohammad A. Shuaib and Sons Trading Company W.L.L.
UNCC claim number: 4003536
UNSEQ number: E-00385

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	32,477	25,982	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence.
Loss of profits	26,824	26,824	Claim recommended in full.
Bad debts	545	0	Insufficient evidence to substantiate claim.
Other loss not categorised	35,394	35,394	Claim reclassified to loss of receivables and other loss not categorised. Other loss not categorised claim recommended in full.
TOTAL	95,240	88,200	

Interest	13,492	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Hayat Marble Company Limited / Abdel Samed Abdullah Mairafi
UNCC claim number: 4003537
UNSEQ number: E-00386

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	17,761	8,730	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	68,254	40,634	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	86,015	49,364	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Fahad Al-Jassar Sons General Trading & Contracting Co. (W.L.L.)
UNCC claim number:	4003538
UNSEQ number:	E-00387

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	285,320	234,223	Original tangible property reclassified to loss of stock and vehicles. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	6,700	3,311	Claim adjusted to reflect M.V.V. Table values. For non-M.V.V. Table vehicles, claim adjusted as per paragraph 37 of the report.
Loss of profits	7,440	0	Claim adjusted to reflect historical results.
TOTAL	299,460	237,534	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Optica House / Nazar Abdulrahman Naccash and Partner W.L.L.
UNCC claim number: 4003539
UNSEQ number: E-00388

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	28,947	21,041	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	17,187	11,687	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	2,970	666	Claim adjusted to reflect historical results, for windfall profits and evidentiary shortcomings.
TOTAL	49,104	33,394	

Claim preparation costs	450	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Electrical Contracting Co. Ltd.
UNCC claim number: 4003540
UNSEQ number: E-00389

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	1,000	800	Claim adjusted for maintenance.
Loss of tangible property	62,153	38,744	Claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim adjusted for maintenance and evidentiary shortcomings.
Loss of stock	728,647	406,721	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	9,470	0	Insufficient evidence to substantiate claim.
Loss of vehicles	67,554	47,534	Claim adjusted to reflect M.V.V. Table values and evidentiary shortcomings.
Restart costs	2,559	1,691	Claim reclassified to restart costs and loss of vehicles. Restart costs claim adjusted for evidentiary shortcomings.
TOTAL	871,383	495,490	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Judaimi Trading & Contracting Co. W.L.L.
UNCC claim number: 4003541
UNSEQ number: E-00390

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	30,000	12,000	Original tangible property claim reclassified to loss of real property, tangible property, stock and cash. Real property claim adjusted for depreciation and failure to repair/replace.
Loss of tangible property	172,920	81,035	Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	347,485	204,537	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of cash	2,000	0	Insufficient evidence to substantiate claim.
Loss of profits	89,152	34,399	Claim adjusted to reflect historical results, windfall profits and evidentiary shortcomings.
Bad debts	11,143	0	Insufficient evidence to substantiate claim.
Other loss not categorised	83,673	83,401	Claim reclassified to other loss not categorised, bad debts and claim preparation costs. Claim for cancelled Kuwaiti dinars recommended in full. Insufficient evidence to substantiate remaining claim.
TOTAL	736,373	415,372	

Claim preparation costs	2,300	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	44,320	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al Ramly Limited W.L.L.
UNCC claim number:	4003476
UNSEQ number:	E-00391

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	25,500	12,750	Claim adjusted for depreciation.
Loss of profits	15,000	10,000	Claim adjusted to restrict the period of loss to 12 months.
TOTAL	40,500	22,750	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Burgan Contracting Company W.L.L.
UNCC claim number:	4003477
UNSEQ number:	E-00392

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	31,804	10,284	Claim reclassified to loss of contracts and profits. Claim adjusted for evidentiary shortcomings.
Loss of tangible property	75,034	43,527	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for failure to repair/replace and evidentiary shortcomings.
Loss of stock	2,520	2,070	Claim adjusted for exchange rate variations and obsolescence.
Loss of cash	6,111	0	Insufficient evidence tc substantiate claim.
Loss of vehicles	29,333	19,527	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	103,620	0	Claim adjusted to reflect historical results.
Restart costs	6,100	0	Insufficient evidence to substantiate claim.
TOTAL	254,522	75,408	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Sabih Engineering & Trading Co. / Fahad & Khalid Al-Sabih
UNCC claim number:	4003478
UNSEQ number:	E-00393

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	85,145	38,125	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation, evidentiary shortcomings and failure to repair/replace.
Loss of stock	115,699	19,182	Goods in transit claim adjusted for evidentiary shortcomings and obsolescence. Insufficient evidence to substantiate stock claim.
Loss of vehicles	1,833	1,833	Claim recommended in full.
Loss of profits	65,393	0	Claim adjusted to reflect historical results.
Other loss not categorised	17,488	14,918	Original cash claim reclassified to other loss not categorised. Claim for cancelled currency recommended in full. In relation to claim for other expenses, see paragraph 89 of the report.
TOTAL	285,558	74,058	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Sawan Trading, Transport and Tourism Co.
UNCC claim number: 4003479
UNSEQ number: E-00394

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of vehicles	2,350	1,533	Original tangible property claim reclassified to loss of vehicles. Claim adjusted to reflect M.V.V. Table values.
Loss of profits	148,700	125,711	Claim adjusted to reflect historical results.
TOTAL	151,050	127,244	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Bahjat Jewellers Company W.L.L.
UNCC claim number: 4003480
UNSEQ number: E-00395

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	319,120	255,296	Original tangible property claim reclassified to loss of stock. Claim adjusted for evidentiary shortcomings.
Loss of profits	29,019	7,372	Claim adjusted to reflect historical results and to restrict the period of loss to seven months.
TOTAL	348,139	262,668	

Claim preparation costs	1,135	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Waroud Showroom Boutique Co. W.L.L.
UNCC claim number: 4003481
UNSEQ number: E-00396

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	152,884	97,380	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up and obsolescence.
Loss of profits	50,000	50,000	Claim recommended in full.
Bad debts	44,000	0	Insufficient evidence to substantiate claim.
TOTAL	246,884	147,380	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	El Seedawi Laboratories Co.
UNCC claim number:	4003482
UNSEQ number:	E-00397

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	50,000	40,000	Claim adjusted for maintenance.
Loss of stock	431,740	292,191	Original tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for obsolescence.
Loss of vehicles	6,700	6,251	Claim adjusted to M.V.V. Table values.
Loss of profits	348,432	348,432	Claim recommended in full.
TOTAL	836,872	686,874	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Green Saloon Sweets Co.
UNCC claim number: 4003483
UNSEQ number: E-00398

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	34,985	24,459	Claim reclassified to loss of tangible property and stock. Original restart of busiress claim reclassified to tangible property. Claim adjusted for depreciation.
Loss of stock	29,844	12,121	Claim adjusted for stock build-up and obsolescence.
Loss of profits	44,458	28,681	Claim adjusted to reflect historical results.
TOTAL	109,287	65,261	

Claim preparation costs	960	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Prime Materials Co.
UNCC claim number: 4003484
UNSEQ number: E-00399

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	27,395	20,230	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	3,068	1,001	Claim adjusted to reflect historical results and restrict the period of loss to seven months.
TOTAL	30,463	21,231	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	3,053	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al Homaidan & Al Ausaimi for Animality Wealth Company
UNCC claim number:	4003485
UNSEQ number:	E-00400

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	278,795	144,067	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for failure to repair/replace and depreciation.
Loss of stock	62,368	49,596	Stock and goods in transit claims adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	18,928	1,074	Claim adjusted for evidentiary shortcomings and to reflect M.V.V. Table values.
Loss of profits	15,367	4,675	Claim adjusted to reflect historical results.
TOTAL	375,458	199,412	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Oasis Catering Services Co. W.L.L.
UNCC claim number:	4003486
UNSEQ number:	E-00401

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	10,964	8,771	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for evidentiary shortcomings.
Loss of stock	170,074	92,259	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	5,750	5,750	Claim recommended in full.
Loss of vehicles	7,500	1,593	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	78,013	22,407	Claim adjusted to reflect historical results and to restrict the period of loss to seven months.
TOTAL	272,301	130,780	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Arabian Engineer Electrical Co.
UNCC claim number:	4003487
UNSEQ number:	E-00402

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	64,067	35,237	Claim reclassified to loss of contracts and bad debts. Claim adjusted for evidentiary shortcomings.
Loss of tangible property	13,321	13,321	Claim reclassified to tangible property, stock, cash and vehicles. Tangible property claim recommended in full.
Loss of stock	40,291	38,628	Claim adjusted for stock build-up.
Loss of cash	8,477	0	Insufficient evidence to substantiate claim.
Loss of vehicles	3,619	3,619	Claim recommended in full.
Loss of profits	16,864	6,817	Claim adjusted to reflect historical results and to restrict period of loss to 7 months.
Bad debts	405,563	0	Claim reclassified to bad debts and restart costs. Insufficient evidence to substantiate claim.
Restart costs	48,712	0	See paragraphs 74-75 of the report.
TOTAL	600,914	97,622	

Claim preparation costs	20,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Rasheed Supermarket Co. / Souq Al-Rasheed Co.
UNCC claim number: 4003488
UNSEQ number: E-00403

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	15,369	10,001	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for depreciation.
Loss of stock	104,836	50,597	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	7,005	2,871	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	127,210	63,469	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Boum Trading & General Contracting Co.
UNCC claim number: 4003489
UNSEQ number: E-00404

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	12,375	12,375	Claim recommended in full.
Loss of tangible property	17,948	17,842	Claim reclassified to loss of real property and tangible property. Original restart claim reclassified to loss of tangible property. Claim adjusted for maintenance.
Loss of profits	124,026	93,019	Claim adjusted for evidentiary shortcomings.
TOTAL	154,349	123,236	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Sajo Co. Abdulla Mohamed Al-Saad and Partners
UNCC claim number:	4003490
UNSEQ number:	E-00405

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	330,782	215,008	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence.
Loss of profits	15,030	15,030	Claim recommended in full.
TOTAL	345,812	230,038	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Sour for Cleaning and Maintenance Contracting Company
UNCC claim number:	4003491
UNSEQ number:	E-00406

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	18,488	14,607	Claim reclassified to loss of tangible property and vehicles. Claim adjusted for depreciation.
Loss of vehicles	3,900	3,900	Claim recommended in full.
Loss of profits	19,690	17,093	Claim adjusted to reflect historical results and to restrict the period of loss to ten months.
TOTAL	42,078	35,600	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Tashyeed Real Estate Co. W.L.L.
UNCC claim number: 4003492
UNSEQ number: E-00407

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	265,000	212,000	Claim adjusted for maintenance.
Loss of profits	65,834	0	Claim adjusted to reflect historical results.
TOTAL	330,834	212,000	

Claim preparation costs	4,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Rashid Abdullah Al-Hunaidi & Brother General Trading & Contracting Co.
UNCC claim number:	4003493
UNSEQ number:	E-00408

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	43,518	41,994	Claim reclassified to loss of tangible property, stock, cash, vehicles and other loss not categorised. Tangible property claim adjusted for maintenance.
Loss of stock	4,152	3,737	Claim adjusted for obsolescence.
Loss of cash	2,353	2,353	Claim recommended in full.
Loss of vehicles	95,000	79,595	Claim adjusted to reflect M.V.V. Table values.
Other loss not categorised	37,500	30,000	Claim adjusted for evidentiary shortcomings.
TOTAL	182,523	157,679	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Wahran Trading Company W.L.L. / Ahmed Abdul Razak Al Zayed & Naim A. Fattah Abu Shanab
UNCC claim number:	4003494
UNSEQ number:	E-00409

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	332,859	233,769	Original tangible property claim reclassified to loss of stock. Stock claim adjusted for stock build-up and obsolescence. Goods in transit claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	114,624	108,254	Claim adjusted to reflect historical results.
TOTAL	447,483	342,023	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Noun Trading Company
UNCC claim number: 4003495
UNSEQ number: E-00410

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	7,388	3,173	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	104,064	73,494	Original contract claim reclassified to loss of goods in transit. Goods in transit claim adjusted for obsolescence and evidentiary shortcomings. Stock claim adjusted for stock build-up and obsolescence.
Loss of vehicles	2,434	1,205	Claim adjusted to reflect M.V.V. Table values and for evidentiary shortcomings.
Loss of profits	24,595	0	Claim adjusted to reflect historical results.
Bad debts	168,546	0	Insufficient evidence to substantiate claim.
TOTAL	307,027	77,872	

Claim preparation costs	4,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Jamhoor Buxly Paints and Associates Company
UNCC claim number:	4003496
UNSEQ number:	E-00411

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	210,000	145,360	Claim adjusted for maintenance and evidentiary shortcomings.
Loss of tangible property	13,645	13,645	Claim reclassified to loss of tangible property, stock, vehicles and bad debts. Tangible property claim recommended in full.
Loss of stock	390,837	175,817	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	23,066	20,287	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	86,016	23,979	Claim adjusted to reflect historical results and to restrict the period of loss to seven months.
Bad debts	533,543	0	Insufficient evidence to substantiate claim.
TOTAL	1,257,107	379,088	

Claim preparation costs	9,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	112,551	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Kulaib International Construction Company / Abdul-Aziz Abdulla Al Mushari Al Kulaib & Partners, W.L.L.

UNCC claim number: 4003497

UNSEQ number: E-00412

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	114,000	30,662	Claim adjusted to reflect net book value and for failure to repair/replace.
Loss of vehicles	610	500	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	13,483	0	Claim adjusted to reflect historical results.
TOTAL	128,093	31,162	

Claim preparation costs	1,750	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Advanced Technology Co. W.L.L.
UNCC claim number:	4003498
UNSEQ number:	E-00413

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	610	610	Claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim recommended in full.
Loss of stock	23,462	18,838	Stock claim adjusted for obsolescence. Goods in transit claim recommended in full.
Loss of cash	3,374	3,374	Claim recommended in full.
Loss of vehicles	3,090	3,090	Claim recommended in full.
Loss of profits	66,276	66,276	Claim recommended in full.
TOTAL	96,812	92,188	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Silver Chain Trading & General Contracting W.L.L.
UNCC claim number:	4003546
UNSEQ number:	E-00414

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	21,584	16,034	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation.
Loss of stock	179,455	0	Insufficient evidence to substantiate claim.
Loss of vehicles	1,100	1,082	Claim adjusted to M.V.V. Table value.
Loss of profits	88,050	65,332	Claim adjusted to reflect historical results and for windfall profits.
Restart costs	2,000	2,000	Claim recommended in full.
TOTAL	292,189	84,448	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Albydai Restaurant & Catering Services Co. (W.L.L.)
UNCC claim number: 4003547
UNSEQ number: E-00415

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	70,856	64,550	Claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim adjusted for depreciation.
Loss of stock	114,488	6,723	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of cash	1,690	0	Insufficient evidence to substantiate claim.
Loss of vehicles	3,133	2,426	Claim adjusted to M.V.V. Table values.
Loss of profits	24,134	2,464	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	214,301	76,163	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Khateefi Trading Co. W.L.L.
UNCC claim number: 4003548
UNSEQ number: E-00416

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	1,900	910	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted to reflect net book value.
Loss of stock	293,745	166,500	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Payment or relief to others	450	450	Claim recommended in full.
Loss of profits	14,450	10,837	Claim adjusted for windfall profits.
Bad debts	780	0	Insufficient evidence to substantiate claim.
TOTAL	311,325	178,697	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Green Desert for Food Stuff Company, W.L.L.
UNCC claim number:	4003549
UNSEQ number:	E-00417

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	6,606	5,053	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	34,440	0	Claim adjusted to reflect historical results.
TOTAL	41,046	5,053	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: The City International Exchange Co. W.L.L.
UNCC claim number: 4003550
UNSEQ number: E-00418

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	21,828	19,600	Claim reclassified to loss of tangible property, cash and vehicles. Claim adjusted for depreciation.
Loss of cash	13,303	0	Insufficient evidence to substantiate claim.
Loss of vehicles	7,920	3,288	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	90,075	0	Claim adjusted to reflect historical results.
Restart costs	25,887	8,870	Claim adjusted for evidentiary shortcomings.
TOTAL	159,013	31,758	

Claim preparation costs	900	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Osra Al-Arabia Trading Company
UNCC claim number: 4003551
UNSEQ number: E-00419

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	37,990	0	See paragraph 60 of the report.
TOTAL	37,990	0	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Nafisy Trading Co.
UNCC claim number:	4003552
UNSEQ number:	E-00420

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	27,560	18,606	Claim adjusted for maintenance and evidentiary shortcomings.
Loss of tangible property	9,375	0	Original tangible property claim reclassified to loss of cash and loss of tangible property. See paragraph 40 of the report.
Loss of cash	2,599	0	Insufficient evidence to substantiate claim.
Loss of profits	100,106	0	Claim adjusted to reflect historical results.
TOTAL	139,640	18,606	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Industrial Refinery Maintenance & Engineering Company - S.A.K. (Closed)
UNCC claim number:	4003553
UNSEQ number:	E-00421

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	80,686	64,549	Claim adjusted for maintenance.
Loss of tangible property	652,305	646,133	Claim reclassified to loss of real property, tangible property, stock and vehicles. Tangible property claim adjusted for depreciation.
Loss of stock	133,477	72,083	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	286,076	250,443	Claim adjusted to reflect M.V.V. Table values, for depreciation and for evidentiary shortcomings.
Loss of profits	126,377	0	Claim adjusted to reflect historical results.
TOTAL	1,278,921	1,033,208	

Claim preparation costs	9,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Naser Sayer & Co. W.L.L.
UNCC claim number:	4003554
UNSEQ number:	E-00422

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	27,948	27,535	Original tangible property claim reclassified to loss of stock and vehicles. Stock claim recommended in full. Goods in transit claim adjusted for obsolescence.
Loss of vehicles	2,388	2,200	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	1,867	1,069	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	32,203	30,804	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Paper Products Manufacturing Co. W.L.L.
UNCC claim number:	4003555
UNSEQ number:	E-00423

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	1,581	1,265	Claim adjusted for maintenance.
Loss of tangible property	145,910	2,399	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	282,025	114,225	Claim adjusted for evidentiary shortcomings.
Loss of vehicles	2,100	1,600	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	45,451	0	Claim adjusted to reflect historical results.
TOTAL	477,067	119,489	

Claim preparation costs	1,700	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Bizarre Decoration Consultants W.L.L.
UNCC claim number:	4003577
UNSEQ number:	E-00424

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	6,975	6,975	Claim reclassified to loss of tangible property and stock. Tangible property claim recommended in full.
Loss of stock	67,230	36,977	Claim adjusted for evidentiary shortcomings.
Loss of profits	27,891	11,969	Claim adjusted to reflect historical results and to restrict the period of loss to seven months.
TOTAL	102,096	55,921	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Dana Agriculture Company
UNCC claim number: 4003578
UNSEQ number: E-00425

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	21,351	17,081	Claim reclassified to loss of tangible property and stock. Claim adjusted for failure to repair/replace.
Loss of stock	145,360	111,200	Stock and goods in transit claims adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	57,794	23,643	Claim adjusted to restrict the period of loss to 12 months and for evidentiary shortcomings.
TOTAL	224,505	151,924	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Hygiene Products Industries
UNCC claim number:	4003579
UNSEQ number:	E-00426

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	427,085	122,924	Original tangible property claim reclassified to loss of stock and vehicles. Stock and goods in transit claims adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	3,222	1,770	Claim adjusted to reflect M.V.V. Table values.
Payment or relief to others	3,175	3,175	Claim reclassified to payment or relief to others and loss of profits. Payment or relief to others claim recommended in full.
Loss of profits	204,425	45,738	Claim adjusted to reflect historical results.
TOTAL	637,907	173,607	

Claim preparation costs	3,286	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: The Arabian Holland Hatchery Company W.L.L.
UNCC claim number: 4003580
UNSEQ number: E-00427

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	12,704	8,669	Claim adjusted for evidentiary shortcomings and maintenance.
Loss of stock	26,836	17,714	Original tangible property claim reclassified to loss of stock. Claim adjusted for evidentiary shortcomings, stock build-up and obsolescence.
Loss of profits	39,835	19,469	Claim adjusted to restrict the period of loss to 12 months, to reflect historical results and for evidentiary shortcomings.
Bad debts	52,983	0	Insufficient evidence to substantiate claim.
Restart costs	42	0	Claim reclassified to restart costs and loss of tangible property. Insufficient evidence to substantiate claim.
TOTAL	132,400	45,852	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Jasim Mohamad Abdul-Rahman Al-Bahar W.L.L.
UNCC claim number: 4003581
UNSEQ number: E-00428

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	1,086	869	Claim adjusted for maintenance.
Loss of tangible property	13,923	8,546	Claim reclassified to tangible property, stock and vehicles. Tangible property claim adjusted for maintenance and depreciation.
Loss of stock	189,363	51,246	Stock claim adjusted for stock build-up and obsolescence. Goods in transit claim recommended in full.
Loss of vehicles	6,204	5,903	Claim adjusted for M.V.V. table values and maintenance.
Loss of profits	23,813	0	Original contracts claim reclassified to loss of profits. Claim adjusted to reflect historical results.
Restart costs	9,742	5,242	Payment or relief claim reclassified to restart costs. Re-operating costs and additional expenses recommended in full. For staff bonuses claim see paragraph 76 of the report.
Other loss not categorised	8,699	0	Claim reclassified to other loss, real property, tangible property, vehicles, claim preparation costs and restart costs. See paragraph 85 of the report.
TOTAL	252,830	71,806	

Claim preparation costs	5,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al Rashed Travel Co. W.L.L.
UNCC claim number:	4003583
UNSEQ number:	E-00430

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	7,077	5,662	Claim reclassified to loss of tangible property and vehicles. Claim adjusted for failure to repair/replace.
Loss of vehicles	6,142	3,532	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	60,137	42,360	Claim adjusted to reflect historical results and to restrict the period of loss to ten months.
TOTAL	73,356	51,554	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Amarat Al-Jadedah Trading and Contracting Co. W.L.L.
UNCC claim number:	4003584
UNSEQ number:	E-00431

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	11,861	8,072	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted to reflect net book value.
Loss of stock	10,138	5,931	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	1,945	1,945	Claim recommended in full.
Loss of profits	95,068	12,328	Claim adjusted to reflect historical results.
TOTAL	119,012	28,276	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Ibrahim Yousif Al Raqam & Partner for General Trading

UNCC claim number: 4003585

UNSEQ number: E-00432

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	1,848,983	1,591,804	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up and obsolescence.
Loss of profits	178,780	40,748	Claim adjusted to reflect historical results.
TOTAL	2,027,763	1,632,552	

Claim preparation costs	2,480	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	240,796	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Tariq Al-Nasrallah General Trading and Tenders Co.
UNCC claim number: 4003586
UNSEQ number: E-00433

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	8,299	5,718	Claim reclassified to loss of tangible property, cash and vehicles. Tangible property claim adjusted for depreciation.
Loss of stock	77,032	65,477	Original contracts claim reclassified to stock and bad debts. See paragraph 70 of the report.
Loss of cash	1,072	1,072	Claim recommended in full.
Loss of vehicles	5,700	5,700	Claim recommended in full.
Loss of profits	108,152	3,028	Claim adjusted to reflect historical results, to restrict the period of loss to 11 months and for windfall profits.
Bad debts	231,098	0	See paragraphs 67-69 of the report.
Restart costs	514	0	Original other loss not categorised claim reclassified to restart costs. Insufficient evidence to substantiate claim.
TOTAL	431,867	80,995	

Claim preparation costs	1,250	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Arab Group for Equipment and Construction
UNCC claim number: 4003597
UNSEQ number: E-00435

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	3,673	3,673	Claim reclassified to loss of tangible property, stock, vehicles and other loss not categorised. Tangible property claim recommended in full.
Loss of stock	126,917	20,389	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of vehicles	1,772	1,772	Claim recommended in full.
Loss of profits	85,302	35,344	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	17,267	11,220	Claim adjusted for evidentiary shortcomings.
Other loss not categorised	100,000	100,000	See paragraph 86 of the report.
TOTAL	334,931	172,398	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Arab Real Estate Company
UNCC claim number: 4003598
UNSEQ number: E-00436

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	52,191	41,753	Claim adjusted for maintenance.
Loss of profits	127,557	0	Claim adjusted to reflect historical results.
TOTAL	179,748	41,753	

Claim preparation costs	1,063	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Financial Activity Company
UNCC claim number:	4003599
UNSEQ number:	E-00437

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	152,247	0	Original real property claim reclassified to loss of profits. Claim adjusted to reflect historical results.
TOTAL	152,247	0	

Claim preparation costs	3,286	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Moon and Star Tyres and Spare Parts Co. W.L.L.
UNCC claim number:	4003600
UNSEQ number:	E-00438

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	88,781	56,650	Original tangible property claim reclassified to loss of stock. Claim adjusted for evidentiary shortcomings, stock build-up and obsolescence.
Loss of profits	11,728	5,111	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	100,509	61,761	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Faddan General Trading & Cont. Co. W.L.L. / Barges Hamoud Al Barges & Partners
UNCC claim number:	4003601
UNSEQ number:	E-00439

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	52,839	22,540	Claim adjusted for evidentiary shortcomings.
Loss of real property	183,693	70,094	Claim adjusted for depreciation and failure to repair/replace.
Loss of tangible property	99,865	79,892	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for failure to repair/replace.
Loss of stock	85,946	56,386	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of vehicles	11,987	7,973	Claim adjusted to reflect M.V.V. Table values and for evidentiary shortcomings.
Loss of profits	49,989	37,492	Original other loss not categorised claim reclassified to loss of profits. Claim adjusted for windfall profits.
TOTAL	484,319	274,377	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Addan General Trading & Aggregate Co. W.L.L.

UNCC claim number: 4003602

UNSEQ number: E-00440

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of vehicles	109,400	55,439	Original tangible property claim reclassified to loss of vehicles. Claim adjusted to reflect M.V.V. Table values.
Loss of profits	27,412	6,769	Claim adjusted to reflect historical results.
TOTAL	136,812	62,208	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	13,567	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Anouf Trading Company W.L.L.
UNCC claim number: 4003603
UNSEQ number: E-00441

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	1,861	750	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	62,981	8,162	Claim adjusted for obsolescence and evidentiary shortcomings.
Bad debts	6,881	0	Insufficient evidence to substantiate claim.
Other loss not categorised	1,214	1,157	Claim reclassified to claim preparation costs and other losses not categorised. Claim for freight charges recommended in full. See paragraph 89 of the report in relation to claim for prepaid expenses.
TOTAL	72,937	10,069	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	379	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Tamasuk General Trading & Contracting Co. / Mohamed Fahed Awaida Al Ajami & Partners Co.
UNCC claim number: 4003604
UNSEQ number: E-00442

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	4,000	3,250	Original tangible property claim reclassified to loss of stock. Claim adjusted for evidentiary shortcomings.
Loss of profits	27,321	16,484	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	31,321	19,734	

Claim preparation costs	2,550	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al Usaimi Trading Co. W.L.L.
UNCC claim number:	4003605
UNSEQ number:	E-00443

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	6,000	1,314	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for evidentiary shortcomings and depreciation.
Loss of stock	7,281	5,825	Claim adjusted for obsolescence.
Loss of profits	1,064	738	Claim adjusted to restrict the period of loss to 12 months and for windfall profits.
TOTAL	14,345	7,877	

Claim preparation costs	1,015	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Golden Dalla Household Company
UNCC claim number:	4003606
UNSEQ number:	E-00444

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	6,023	6,023	Claim reclassified to loss of tangible property and stock. Tangible property claim recommended in full.
Loss of stock	415,189	274,226	Claim adjusted for evidentiary shortcomings, stock build-up and obsolescence.
Loss of profits	31,813	14,239	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
Bad debts	101,363	0	Insufficient evidence to substantiate claim.
TOTAL	554,388	294,488	

Claim preparation costs	2,595	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	M/s. Umm Al-Aish Transport Company
UNCC claim number:	4003607
UNSEQ number:	E-00445

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of vehicles	65,500	14,600	Original tangible property claim reclassified to loss of vehicles. Claim adjusted to reflect M.V.V. Table values.
Bad debts	21,400	0	Insufficient evidence to substantiate claim.
TOTAL	86,900	14,600	

Claim preparation costs	1,094	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Metal Products Company
UNCC claim number:	4003608
UNSEQ number:	E-00446

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	106,567	102,304	Claim adjusted for maintenance.
TOTAL	106,567	102,304	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	7,370	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Yousuf Al Zabin Sons Trading Co. W.L.L.
UNCC claim number:	4003556
UNSEQ number:	E-00447

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	542,247	496,733	Original tangible property claim reclassified to loss of stock. Stock claim adjusted for obsolescence. Goods in transit claim adjusted for obsolescence and evidentiary shortcomings.
Payment or relief to others	6,123	6,123	Claim recommended in full.
Loss of profits	303,641	200,286	Claim adjusted to reflect historical results, to restrict the period of loss to 12 months and for windfall profits.
Other loss not categorised	20,302	19,315	Claim adjusted for exchange rate variations.
TOTAL	872,313	722,457	

Claim preparation costs	2,400	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Almayy Fashion Co. W.L.L.
UNCC claim number: 4003557
UNSEQ number: E-00448

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	96,200	83,665	Claim adjusted to reflect historical results.
TOTAL	96,200	83,665	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Alfailaq General Trading and Contracting Company
UNCC claim number: 4003558
UNSEQ number: E-00449

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	501,759	290,487	Original tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	4,200	2,700	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	54,225	35,284	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	266,120	0	Insufficient evidence to substantiate claim.
TOTAL	826,304	328,471	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	103,288	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Silk Road Company for General Trading & Construction
UNCC claim number: 4003559
UNSEQ number: E-00450

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	25,000	17,000	Claim adjusted for maintenance and evidentiary shortcomings.
Loss of tangible property	16,850	10,185	Claim adjusted for depreciation, maintenance and evidentiary shortcomings.
Loss of profits	40,800	0	Original claim for income-producing property reclassified to loss of profits. Insufficient evidence to substantiate claim.
TOTAL	82,650	27,185	

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: M/s. Al Safa Trading & Contracting Co. W.L.L.
UNCC claim number: 4003560
UNSEQ number: E-00451

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	800	640	Claim adjusted for maintenance.
Loss of tangible property	10,504	7,587	Claim adjusted for evidentiary shortcomings.
Loss of profits	31,571	3,373	Claim adjusted to reflect historical results and to restrict the period of loss to seven months.
TOTAL	42,875	11,600	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Company for Process Plant Construction & Contracting K.S.C.

UNCC claim number: 4003561

UNSEQ number: E-00452

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	2,200	1,760	Claim adjusted for maintenance.
Loss of tangible property	26,701	8,521	Original tangible property claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for evidentiary shortcomings, depreciation and maintenance.
Loss of stock	8,858	4,315	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	759	759	Claim recommended in full.
Restart costs	20,807	20,807	Original restart costs claim reclassified to loss of real property, loss of tangible property and restart costs. Claim for restart costs recommended in full.
TOTAL	59,325	36,162	

Claim preparation costs	3,250	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Mawarid Trading Co. W.L.L.
UNCC claim number: 4003562
UNSEQ number: E-00453

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	18,601	18,291	Claim reclassified to loss of tangible property, cash and vehicles. Tangible property claim adjusted for depreciation.
Loss of cash	322	322	Claim recommended in full.
Loss of vehicles	3,721	3,500	Claim adjusted to reflect M.V.V. Table values.
Other loss not categorised	92,790	64,792	Original payment or relief to others claim reclassified to other losses not categorised. See paragraphs 87 and 89 of the report.
TOTAL	115,434	86,905	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: General Contracting House Ltd.
UNCC claim number: 4003563
UNSEQ number: E-00454

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	3,470	3,470	Original tangible property claim reclassified to loss of tangible property, stock, cash and vehicles. Tangible property claim recommended in full.
Loss of stock	134,092	102,581	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	12,271	0	Insufficient evidence to substantiate claim.
Loss of vehicles	3,500	2,960	Claim adjusted to M.V.V. Table values.
Bad debts	21,650	0	Original business transaction claim reclassified to bad debts. Insufficient evidence to substantiate claim.
TOTAL	174,983	109,011	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Dan Trading & Contracting Co. / Fouad Fawzi Al-Khadra & Partner W.L.L.
UNCC claim number:	4003564
UNSEQ number:	E-00455

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	26,497	3,773	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	5,112	2,299	Claim adjusted to reflect historical results, for windfall profits and evidentiary shortcomings.
TOTAL	31,609	6,072	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Savings and Credit Bank
UNCC claim number:	4003565
UNSEQ number:	E-00456

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	26,052	20,842	Claim adjusted for maintenance.
Loss of cash	191,064	190,140	Original tangible property claim reclassified to loss of cash, vehicles and other loss not categorised. Loss of cash claim adjusted for evidentiary shortcomings.
Loss of vehicles	18,100	16,641	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	1,411,254	1,411,254	Original payment or relief to others reclassified to loss of profits. Claim recommended in full.
Restart costs	6,827	6,827	Original other loss not categorised claim reclassified to restart costs. Restart costs claim recommended in full.
Other loss not categorised	548	0	See paragraph 89 of the report.
TOTAL	1,653,845	1,645,704	

Claim preparation costs	883	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	196,392	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Middle East Chemical Manufacturing Company K.S.C.
UNCC claim number: 4003567
UNSEQ number: E-00458

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	13,435	10,830	Claim adjusted for maintenance.
Loss of tangible property	11,045	11,045	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim recommended in full.
Loss of stock	55,784	50,206	Claim adjusted for obsolescence.
Loss of vehicles	8,364	6,472	Claim adjusted to M.V.V. Table values.
Loss of profits	61,657	0	Claim reclassified to loss of profits and other loss not categorised. Claim adjusted to reflect historical results.
Restart costs	6,185	1,503	Claim adjusted to reflect incremental expenses. See also paragraphs 77-79 of the report.
Other loss not categorised	3,191	0	See paragraph 88 of the report.
TOTAL	159,661	80,056	

Claim preparation costs	1,303	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al-Khamis for Refrigeration Company / Abdullah Madhi Al-Kamis & Partners W.L.L.
UNCC claim number: 4003568
UNSEQ number: E-00459

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	41,388	34,644	Original tangible property claim reclassified to loss of stock and cash. Goods in transit claim adjusted for evidentiary shortcomings. Stock claim adjusted for obsolescence.
Loss of cash	1,597	1,597	Claim recommended in full.
Loss of profits	10,392	4,676	Claim adjusted for evidentiary shortcomings and windfall profits.
TOTAL	53,377	40,917	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Remal Al Jahra General Contracting Co. / Ibrahim Hussain Malek Hussain & Partners W.L.L.
UNCC claim number: 4003570
UNSEQ number: E-00461

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	181,380	145,104	Claim adjusted for evidentiary shortcomings.
Loss of profits	44,508	33,381	Claim adjusted for evidentiary shortcomings.
TOTAL	225,888	178,485	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Farooq Alawadi for Textiles, Import & Export Co.
UNCC claim number: 4003571
UNSEQ number: E-00462

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	24,101	0	Original tangible property claim reclassified to loss of stock. Insufficient evidence to substantiate claim.
TOTAL	24,101	0	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Riyash Trading Company W.L.L.
UNCC claim number: 4003572
UNSEQ number: E-00463

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	1,134	1,055	Claim adjusted for maintenance.
Loss of stock	73,134	49,731	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
TOTAL	74,268	50,786	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Dhefaf Al-Kuwait for General Trading & General Contracting
UNCC claim number:	4003573
UNSEQ number:	E-00464

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	4,705	4,705	Claim reclassified to loss of tangible property and stock. Tangible property claim recommended in full.
Loss of stock	90,356	40,257	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	4,708	972	Claim adjusted to reflect historical results and to restrict the period of loss to ten months.
TOTAL	99,769	45,934	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mealem Alkuwait for General Trading & Contracting Co. W.L.L.
UNCC claim number: 4003574
UNSEQ number: E-00465

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	118,150	60,112	Claim adjusted to reflect historical results, restrict period of loss to 12 months and for evidentiary shortcomings.
TOTAL	118,150	60,112	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	10,043	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Gharabally and Hankeer Trading Company
UNCC claim number:	4003575
UNSEQ number:	E-00466

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	729	583	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for failure to repair/replace.
Loss of stock	169,372	0	Insufficient evidence to substantiate claim.
Loss of profits	19,944	13,747	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	190,045	14,330	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Economic Society
UNCC claim number:	4003576
UNSEQ number:	E-00467

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	4,865	3,600	Claim adjusted for maintenance and evidentiary shortcomings.
Loss of tangible property	5,763	2,364	Claim adjusted for depreciation.
TOTAL	10,628	5,964	

Annex II

Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Arabian Balkan Tourism & Travel Co.
UNCC claim number: 4003588
UNSEQ number: E-00468

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	10,430	5,000	Claim adjusted for evidentiary shortcomings.
TOTAL	10,430	5,000	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	1,034	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	The Union of Agricultural Co-operative Societies
UNCC claim number:	4003589
UNSEQ number:	E-00469

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	5,685	1,056	Claim adjusted for evidentiary shortcomings and depreciation.
Loss of tangible property	19,629	12,537	Claim reclassified to loss of tangible property and loss of stock. Tangible property claim adjusted for evidentiary shortcomings and failure to repair/replace.
Loss of stock	2,505	0	See paragraph 42 of the report.
Loss of profits	21,099	10,603	Claim adjusted to reflect historical results.
TOTAL	48,918	24,196	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al Qahtani & Sarkis for Construction Materials Co. / Hussain A.J. Al-Qahtani & Partner
UNCC claim number: 4003590
UNSEQ number: E-00470

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	49,932	0	Original tangible property claim reclassified to loss of stock. Insufficient evidence to substantiate claim.
Loss of profits	44,184	25,696	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	94,116	25,696	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Bridgestone Tire Distribution Co. W.L.L.
UNCC claim number:	4003591
UNSEQ number:	E-00471

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	697,004	449,322	Original tangible property claim reclassified to loss of stock, vehicles and other loss not categorised. Stock claim adjusted for stock build-up.
Loss of vehicles	12,190	11,581	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	1,435,190	717,327	Claim adjusted to reflect historical results.
Bad debts	209,710	35,097	Claim adjusted for evidentiary shortcomings.
Other loss not categorised	212,840	205,090	Original other loss not categorised claim reclassified to bad debts. Claim adjusted for evidentiary shortcomings and exchange rate variations.
TOTAL	2,566,934	1,418,417	

Claim preparation costs	10,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	254,554	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims Reported by claimant name and category of loss

Claimant's name:	Nooran Shopping Center Co.
UNCC claim number:	4003592
UNSEQ number:	E-00472

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	583,956	55,875	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up.
Loss of profits	64,196	21,637	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	648,152	77,512	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Marsa Trading and Contraction

UNCC claim number: 4003593

UNSEQ number: E-00473

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	53,284	39,816	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	6,754	5,065	Claim adjusted for evidentiary shortcomings.
TOTAL	60,038	44,881	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	11,291	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Kuwait Pioneer Company W.L.L. / Ismail Ahamed Al Mosawi
UNCC claim number: 4003594
UNSEQ number: E-00474

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	20,780	540	Original tangible property claim reclassified to loss of stock and cash. Stock claim adjusted for evidentiary shortcomings, stock build-up and obsolescence.
Loss of cash	3,252	3,252	Claim recommended in full.
Loss of profits	14,047	12,907	Claim adjusted to reflect historical results.
TOTAL	38,079	16,699	

Claim preparation costs	1,250	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Construction Material Centre Co., W.L.L.
UNCC claim number: 4003595
UNSEQ number: E-00475

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	196,525	143,973	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up and obsolescence.
Loss of profits	38,016	28,512	Claim adjusted for windfall profits.
TOTAL	234,541	172,485	

Annex II

Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: The Commercial & Real Estate Company K.S.C.
UNCC claim number: 4003596
UNSEQ number: E-00476

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	14,950	11,960	Claim adjusted for maintenance.
Loss of cash	1,290	0	Original tangible property claim reclassified to loss of cash. Insufficient evidence to substantiate claim.
Loss of profits	787,375	416,711	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
TOTAL	803,615	428,671	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	56,253	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Farwania Travel Company

UNCC claim number: 4003644

UNSEQ number: E-00477

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	7,661	6,129	Claim adjusted for evidentiary shortcomings.
Loss of profits	101,304	24,516	Original other loss not categorised claim reclassified to loss of profits and claim preparation costs. Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	108,965	30,645	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Nasser Al Hamlan General Trading & Contracting Co. W.L.L.
UNCC claim number: 4003645
UNSEQ number: E-00478

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	270,555	138,536	Claim adjusted to reflect historical results.
TOTAL	270,555	138,536	

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Rolco Buildings and Roads Cleaning Co. / Abdullah Ghazi Al Mutairi and Co.
UNCC claim number:	4003646
UNSEQ number:	E-00479

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	44,246	43,212	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for depreciation.
Loss of stock	102,073	33,701	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	26,282	18,059	Claim adjusted to reflect historical results and to restrict period of loss to seven months.
TOTAL	172,601	94,972	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Boodai & Al-Bitar Furniture Decoration Trading Co.
UNCC claim number:	4003647
UNSEQ number:	E-00480

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	24,391	7,833	Original tangible property claim reclassified to loss of tangible property and stock. Claim adjusted for failure to repair/replace and for reasons stated in paragraphs 43-46 of the report.
Loss of stock	185,993	59,057	Claim adjusted for obsolescence and for reasons stated in paragraphs 43-46 of the report.
Loss of profits	114,716	71,972	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
Bad debts	117,031	0	Insufficient evidence to substantiate claim.
TOTAL	442,131	138,862	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Sahara Commercial Company / Ibrahim Abbas Abu Rumanah and Partners
UNCC claim number: 4003648
UNSEQ number: E-00481

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	328,661	105,566	Original tangible property claim reclassified to loss of stock and other losses not categorised. Stock claim adjusted for stock build-up.
Loss of profits	119,518	87,270	Claim adjusted to reflect historical results.
Other loss not categorised	29,393	25,643	Claim adjusted for evidentiary shortcomings.
TOTAL	477,572	218,479	

Claim preparation costs	320	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	East Arabia Trading & Contracting Co. W.L.L.
UNCC claim number:	4003649
UNSEQ number:	E-00482

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	8,784	8,784	Claim recommended in full.
Loss of profits	9,512	9,512	Claim recommended in full.
TOTAL	18,296	18,296	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Abraj for Translation and Publishing Co.
UNCC claim number: 4003650
UNSEQ number: E-00483

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	7,054	7,054	Claim recommended in full.
Loss of profits	4,024	2,244	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	11,078	9,298	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Steamco Shipping Agencies
UNCC claim number:	4003651
UNSEQ number:	E-00484

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of cash	50	0	Claim reclassified to loss of cash, loss of profits and other loss not categorised. Insufficient evidence to substantiate loss of cash claim.
Loss of profits	115,413	55,851	Claim adjusted to reflect historical results, to limit period of loss to ten months and for windfall profits.
Restart costs	1,306	1,306	Claim recommended in full.
Other loss not categorised	46	0	Insufficient evidence to substantiate claim.
TOTAL	116,815	57,157	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: The Kuwaiti Amani Trading & Contraction Co.

UNCC claim number: 4003652

UNSEQ number: E-00485

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	31,525	18,442	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and for evidentiary shortcomings.
Loss of profits	46,820	23,640	Original loss of contracts claim reclassified to loss of profits. Claim adjusted for evidentiary shortcomings, to restrict period of loss to ten months and to reflect historical results.
TOTAL	78,345	42,082	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Boom for Diving & Marine Equipment Co.
UNCC claim number:	4003653
UNSEQ number:	E-00486

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	13,595	13,595	Claim reclassified to loss of tangible property, stock and cash. Tangible property claim recommended in full.
Loss of stock	91,275	72,914	Stock claim adjusted for obsolescence. Goods in transit claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	2,684	0	Insufficient evidence to substantiate claim.
Loss of profits	9,347	6,471	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	116,901	92,980	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	20,370	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Sports Sarris Palace Co.
UNCC claim number:	4003654
UNSEQ number:	E-00487

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	737,389	446,108	Original tangible property claim reclassified to loss of stock. Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. Goods in transit claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	34,307	34,307	Claim recommended in full.
TOTAL	771,696	480,415	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	91,639	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al Danna Marine and Contracting Company
UNCC claim number: 4003655
UNSEQ number: E-00488

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	2,355	1,838	Claim adjusted for depreciation and evidentiary shortcomings.
Loss of profits	24,900	0	Insufficient evidence to substantiate claim.
TOTAL	27,255	1,838	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Abdulhadi Al-Mailem Trading Co. W.L.L.
UNCC claim number:	4003656
UNSEQ number:	E-00489

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	14,486	10,409	Original tangible property claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation.
Loss of stock	300,765	255,650	Claim adjusted for evidentiary shortcomings.
Loss of vehicles	5,939	5,939	Claim recommended in full.
Loss of profits	1,056,717	593,189	Claim adjusted to reflect historical results.
TOTAL	1,377,907	865,187	
Claim preparation costs	1,900	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	155,010	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Ahmed Yousef Abdulhadi Almailem & Bros. Co. W.L.L.
UNCC claim number:	4003657
UNSEQ number:	E-00490

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	170,557	60,578	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation.
Loss of stock	1,325,377	1,105,713	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	8,605	7,800	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	430,389	356,873	Claim adjusted to reflect historical results.
TOTAL	1,934,928	1,530,964	

Claim preparation costs	1,900	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	290,240	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Jashanmal & Partners Company W.L.L.
UNCC claim number: 4003658
UNSEQ number: E-00491

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	45,059	34,717	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted for depreciation and failure to repair/replace.
Loss of stock	566,756	505,398	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of cash	3,511	0	Original other loss not categorised claim reclassified to loss of cash. Insufficient evidence to substantiate claim.
Loss of vehicles	2,601	2,471	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	40,336	30,252	Claim adjusted for windfall profits.
Bad debts	160,589	0	Insufficient evidence to substantiate claim.
TOTAL	818,852	572,838	

Claim preparation costs	5,500	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II
Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al-Hoda Kuwaiti Co. W.L.L.
UNCC claim number: 4003659
UNSEQ number: E-00492

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	829,309	281,714	Original tangible property claim reclassified to loss of stock and vehicles. Original other loss not categorised claim reclassified to loss of stock and claim preparation costs. Stock claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	12,323	6,543	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	39,708	22,678	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	202,308	0	Insufficient evidence to substantiate claim.
TOTAL	1,083,648	310,935	

Claim preparation costs	5,893	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mohammed Al Wazzan & Partners Store Co. W.L.L.

UNCC claim number: 4003660

UNSEQ number: E-00493

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	23,200	12,800	Claim adjusted for maintenance and evidentiary shortcomings.
Loss of tangible property	10,490	2,163	Claim reclassified to loss of tangible property, stock and vehicles. Tangible property claim adjusted to reflect net book value and for failure to repair/replace.
Loss of stock	905,538	769,150	Stock claim adjusted fcr obsolescence. Insufficient evidence to substantiate goods in transit claim.
Loss of vehicles	1,617	1,450	Claim adjusted to M.V.V. table values.
Loss of profits	214,212	120,494	Claim adjusted to reflect historical results and for windfall profits.
Bad debts	91,399	0	Insufficient evidence to substantiate claim.
TOTAL	1,246,456	906,057	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.
Interest	140,226	n.a.	Governing Council's determination pending. See paragraphs 91 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: South United Arab Company
UNCC claim number: 4003662
UNSEQ number: E-00495

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	500	400	Claim adjusted for maintenance.
Loss of stock	159,972	105,047	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	9,757	7,318	Claim adjusted for evidentiary shortcomings.
Other loss not categorised	3,525	0	See paragraph 89 of the report.
TOTAL	173,754	112,765	

Claim preparation costs	480	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Aircraft Engineers & Pilot Association
UNCC claim number:	4003663
UNSEQ number:	E-00496

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	28,470	19,390	Claim adjusted for maintenance and betterment.
Loss of tangible property	6,768	6,768	Claim recommended in full.
TOTAL	35,238	26,158	

Claim preparation costs	375	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Faraj Al Ajeel & Co.
UNCC claim number: 4003664
UNSEQ number: E-00497

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	176,537	101,636	Original tangible property claim reclassified to loss of stock. Stock claim adjusted for stock build-up, obsolescence and evidentiary shortcomings. Goods in transit claim adjusted for evidentiary shortcomings and obsolescence.
Loss of profits	10,719	7,512	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	187,256	109,148	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Tawakol Jewellery Company W.L.L.
UNCC claim number:	4003665
UNSEQ number:	E-00498

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	365,903	91,172	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up.
Loss of profits	193,525	170,305	Claim adjusted to reflect historical results.
TOTAL	559,428	261,477	

Annex II

Recommended awards for sixth instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Glass Fiber Reinforced Plastic Products Company K.S.C. (Closed) Under Liquidation
UNCC claim number:	4003667
UNSEQ number:	E-00500

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	787,070	324,695	Claim reclassified to loss of tangible property and stock. Tangible property claim adjusted for depreciation.
Loss of stock	250,266	200,213	Claim adjusted for evidentiary shortcomings.
TOTAL	1,037,336	524,908	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraphs 92 of the report.

Annex XVII

Decision concerning the sixth instalment of E4 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the sixth instalment of "E4" claims, covering 140 claims, 1/

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report. The aggregate amount awarded, based on the recommendations contained in annex I to the report, is as follows:

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Kuwait	136	4	173,489,855	97,566,794

3. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)),

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* Previously issued as document S/AC.26/Dec.93 (2000).

[1] The text of the report appears in document S/AC.26/2000/8 (annex XVI above).

4. Recalls that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), the Government of the State of Kuwait shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

5. Requests the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to the Government of the State of Kuwait.

Annex XVIII

Report and recommendations made by the Panel of Commissioners concerning the seventh instalment of E4 claims*

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* Previously issued as document S/AC.26/2000/9.

CONTENTS

	Paragraphs	Page
Introduction	1 - 3	785
I. OVERVIEW OF THE SEVENTH INSTALMENT CLAIMS	4 - 8	785
II. THE PROCEEDINGS	9 - 20	786
III. LEGAL FRAMEWORK AND VERIFICATION AND VALUATION METHODOLOGY	21 - 23	788
IV. THE CLAIMS	24 - 81	788
A. Contract	25 - 30	788
B. Real property	31 - 36	790
C. Tangible property, stock, cash and vehicles .	37 - 48	791
(a) Tangible property	39 - 40	791
(b) Stock	41 - 42	792
(c) Cash	43 - 44	792
(d) Vehicles	45 - 47	792
D. Payment or relief to others	49 - 55	793
E. Loss of profits	56 - 62	795
F. Receivables	63 - 68	796
G. Restart costs	69 - 72	797
H. Other losses	73 - 81	798
V. OTHER ISSUES	82 - 83	800
A. Applicable dates for currency exchange rate and interest	82	800
B. Claim preparation costs	83	800
VI. RECOMMENDED AWARDS	84	800

Annexes

	Page
Annex I: Recommended awards for the seventh instalment of "E4" claims - Reported by UNSEQ and UNCC claim numbers and claimant name	801
Annex II: Recommended awards for the seventh instalment of "E4" claims - Reported by claimant name and category of loss . .	808

Introduction

1. At its thirtieth session, held on 14-16 December 1998, the Governing Council of the United Nations Compensation Commission (the "Commission") appointed Messrs. Luiz Olavo Baptista ("Chairman"), Jean Naudet, and Jianxi Wang as the second Panel of Commissioners (the "Panel") charged with reviewing category "E4" claims. The "E4" population consists of claims submitted by Kuwaiti private-sector corporations and other entities, other than oil sector and environmental claims, eligible to file claims under the Commission's "Claim Forms for Corporations and Other Entities" ("Form E").

2. The seventh instalment of 139 "E4" claims was submitted to the Panel on 16 July 1999, in accordance with article 32 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10) (the "Rules").

3. Pursuant to article 38 of the Rules, this report contains the Panel's recommendations to the Governing Council concerning the seventh instalment claims.

I. OVERVIEW OF THE SEVENTH INSTALMENT CLAIMS

4. The seventh instalment claims were selected from among the population of approximately 2,750 "E4" claims on the basis of criteria that include, inter alia, the size, volume and complexity of the claim and the legal, factual, and valuation issues raised by the claim.

5. The seventh instalment claims allege losses aggregating Kuwaiti dinars ("KD") 76,182,396 (approximately US$263,606,907). The claimants also assert claims for interest aggregating KD 2,737,072 (approximately US$9,470,837) and claim preparation costs aggregating KD 302,603 (approximately US$1,047,069).

6. The amount claimed by each claimant in the seventh instalment is less than KD 3 million (approximately US$10 million). The nature of the legal and factual issues raised in each claim and the amount of documentation provided in support of each claim allowed the Panel to complete its verification of the claims within 180 days.

7. All of the claimants in the seventh instalment operated in Kuwait prior to Iraq's invasion and occupation of Kuwait. Most claimants conducted trading operations dealing in a variety of goods ranging from consumer items to construction equipment. Some claimants were engaged in manufacturing and service industries. A few claimants are non-profit organizations.

8. The claimants in this instalment sought compensation for all types of losses identified on Form E except two: loss of "business transaction or course of dealing" and loss of "income-producing property". The two most

common losses asserted are loss of tangible property (mainly stock, furniture, fixtures, equipment and vehicles) and loss of earnings or profits. The claimants also sought compensation for uncollectible receivables, restart costs, interest and claim preparation costs and other losses.

II. THE PROCEEDINGS

9. Before the seventh instalment claims were submitted to the Panel, the secretariat undertook a preliminary assessment of the claims in accordance with the Rules. This type of review is described in paragraph 11 of the "Report and recommendations made by the Panel of Commissioners concerning the first instalment of 'E4' claims" (S/AC.26/1999/4) (the "First 'E4' Report"). The results of the review were entered into a centralized database maintained by the secretariat (the "Claims Database").

10. Of the 139 claims, nine claims presented formal deficiencies. The secretariat issued notifications to these claimants pursuant to article 15 of the Rules and all formal deficiencies were subsequently corrected by the claimants.

11. A substantive review of the claims was undertaken to identify significant legal, factual and valuation issues. The results of the review, including the significant issues identified, were recorded in the Claims Database.

12. The Executive Secretary of the Commission submitted reports 26 and 27 dated 11 January 1999 and 26 April 1999, respectively, to the Governing Council in accordance with article 16 of the Rules. These reports covered, inter alia, the seventh instalment of "E4" claims and presented significant legal and factual issues identified in these claims. Several Governments, including the Government of Iraq, submitted additional information and views in response to the Executive Secretary's article 16 reports.

13. At the conclusion of the (i) preliminary assessment; (ii) substantive review; and (iii) article 16 reporting, the following documents had been made available to the Panel:

(a) the claim documents submitted by the claimants;

(b) the preliminary assessment reports prepared under article 14 of the Rules;

(c) information and views of Governments, including the Government of Iraq, received in response to the article 16 reports; and

(d) other information, such as legal briefing notes, deemed under article 32 of the Rules, to be useful to the Panel for its work.

14. For the reasons stated in paragraph 17 of the First "E4" Report, the Panel retained the services of an accounting firm and a loss adjusting firm as expert consultants. The Panel directed the expert consultants to review each claim in the seventh instalment in accordance with the verification and valuation methodology developed by the Panel and to submit to the Panel a detailed report for each claim summarizing the expert consultants' findings.

15. By its procedural order dated 16 July 1999, the Panel gave notice of its intention to complete its review of the seventh instalment claims and submit its report and recommendations to the Governing Council within 180 days of 16 July 1999. This procedural order was transmitted to the Government of Iraq and the Government of Kuwait.

16. Pursuant to article 34 of the Rules, additional information was requested from the claimants in order to assist the Panel in its review of the claims. The claimants that were unable to submit the evidence requested were asked to provide reasons for their inability to comply with such requests. All requests for additional information were directed through the Government of Kuwait's Public Authority for Assessment of Compensation for Damages Resulting from Iraqi Aggression ("PAAC"). The requests for additional information were made in relation to the entire "E4" claims population and not just to the seventh instalment claims.

17. Most of the requests for additional information have been described in paragraphs 19-24 of the "Report and recommendation made by the Panel of Commissioners concerning the fourth instalment of 'E4' claims" (S/AC.26/1999/18) (the "Fourth 'E4' Report"). These requests for information are not restated in this report.

18. On 24 June 1999, the claimants that filed claims for loss of goods in transit were asked to provide proof of payment for the goods shipped, in addition to Port Authority documents demonstrating that the goods were received in Kuwait. On 2 August 1999, PAAC requested the identification of the specific claimants from whom this information was needed. On 13 August 1999, PAAC was provided with names of the claimants who were required to provide such information.

19. An additional level of verification was performed to determine if related claimants filed duplicate claims. This review is described in paragraph 18 of the Fourth "E4" Report.

20. Based on its review of the documents submitted and the additional information obtained, the Panel concluded that the issues presented by the seventh instalment claims had been adequately developed and that oral proceedings to further explore such issues were not required.

III. LEGAL FRAMEWORK AND VERIFICATION AND VALUATION METHODOLOGY

21. The legal framework and the verification and valuation methodology applied to the evaluation of claims in this instalment is the same as that used in earlier "E4" instalments. This framework and methodology were discussed in paragraphs 25-62 of the First "E4" Report. The Second and Fourth "E4" Reports discussed additional legal and verification and valuation issues that were encountered in those instalments. These various elements of the Panel's review are not restated in this report. Instead, this report makes reference to sections in the previous "E4" reports where such issues have been addressed.

22. In the limited instances where the Panel encountered new issues not addressed in prior "E4" reports, the Panel developed methodologies for verifying and valuing the losses. These new issues are discussed in the text of this report. The Panel's specific recommendations on the losses asserted in this instalment and the reasons therefor are set out in the annexes to this report.

23. Before discussing the Panel's specific recommendations for compensating the seventh instalment claims, it is important to restate that the Panel's approach to the verification and valuation of these claims balances the claimant's inability to always provide best evidence against the "risk of overstatement" associated with shortcomings in evidence. In this context, the term "risk of overstatement", as defined in paragraph 34 of the First "E4" Report, is used to refer to cases in which claims contain evidentiary shortcomings that prevent their precise quantification and therefore present a risk that they might be overstated.

IV. THE CLAIMS

24. The Panel reviewed the claims according to the nature and type of loss identified. Therefore, the Panel's recommendations are set out by loss type. Reclassified losses have been dealt with in the section pertaining to the loss category into which the Panel reclassified the losses.

A. Contract

25. Eleven claimants in the present instalment asserted loss of contract claims aggregating KD 1,308,538 (approximately US$4,527,813). The Panel's approach to the compensability of contract losses is stated in prior "E4" reports and the verification and valuation methodology adopted by the Panel for the loss of contract claims is discussed in paragraphs 77-84 of the First "E4" Report.

26. One claim for loss of contract in this instalment relates to a contract dated 20 November 1989 with an Iraqi company. Khalid Ali Al-Khorafi & Bros. Co. seeks compensation for labour costs and the cost of materials already incurred but not billed. The claimant was contracted to design, supply, fabricate and install steel structures for an Iraqi company's project in Iraq. The claimant had already started the fabrication of specified materials in Kuwait and delivered some of those materials to its client's project site in Iraq. Other than the narrative provided, no direct documentary evidence was provided by the claimant showing the repudiation or cancellation of the contract. However, the Panel determined that, inasmuch as the project site was in Iraq and part of the performance by the claimant (i.e., installation of steel structures) was to be made therein, it is reasonable to assume, in this particular case, that the claimant was not able to perform on part of the contract as a result of Iraq's invasion and occupation of Kuwait. Nonetheless, the claimant did not provide any documentary evidence for the quantification of the costs claimed to have been incurred. In view of this evidentiary shortcoming, the Panel recommends no compensation for this claim.

27. International Financial Line Company W.L.L. seeks compensation for losses related to a gold consignment held by the claimant on 1 August 1990. The consignor unilaterally fixed the price of the consignment stating that it did so to protect the interest of the claimant since the price of gold started to rise in the aftermath of Iraq's invasion of Kuwait. Thus, the claimant asserts that it was "forced" to buy the gold from the consignor at a higher price on account of Iraq's invasion. (A comparison of daily trading rates by the claimant later showed that the price fixed by the consignor was the highest traded price of gold during the period of Iraq's occupation of Kuwait.) However, the consignment contract stipulated that the price of the consignment would be negotiated and agreed upon by both parties. The Panel determined that the necessary and proximate cause of the claimant's loss was the act of the consignor in unilaterally fixing the price of gold that it was not contractually entitled to determine. The Panel recommends no compensation for this claim because the claimant failed to sufficiently establish the causal link between the asserted loss and Iraq's invasion and occupation of Kuwait.

28. Badr Alsultan & Brother Co. seeks compensation for what it describes as "loss of investment" in Al Ahmadi Pharmacy. At the time of Iraq's invasion of Kuwait, the claimant had an existing contract with Mr. Bakr Mohamed Bakr Ismail under which the latter was authorized to operate the claimant's pharmacy for a flat monthly fee. The contract stipulated that the pharmacy contained inventory that had to be returned to the claimant, in kind or in cash value, upon the termination of the contract. The claimant seeks compensation for the loss of the inventory of the pharmacy during Iraq's occupation. A similar claim was submitted in category "D" (Individual Claims for Damages above US$100,000.) by Mr. Bakr Mohamed Bakr Ismail for lost

pharmaceutical inventory. The Panel determined that the latter held title to the inventory even if the claimant had the contractual right to demand payment from him for the value of the inventory at the end of the contract term. In light of these overlapping claims and the lack of direct interest of the claimant in the lost inventory, the Panel recommends no compensation for this loss of contract claim.

29. Kuwait International Investment Co. KSC seeks reimbursement for the loss of a downpayment made to a contractor in connection with the construction of a commercial shop. The downpayment was used by the contractor to purchase materials and to pay for the cost of labour in the initial phase of the construction work. The claimant provided a signed construction contract and voucher receipt for the downpayment. The claimant also provided correspondence from the contractor showing the latter's cancellation of the contract. However, the claimant failed to provide proof of purchase of the construction materials and of payment of labour costs. In view of this evidentiary shortcoming, the Panel recommends no compensation for this claim.

30. The Panel's recommendations with respect to contract losses are set out in annex II.

B. Real property

31. Twenty-nine claimants in this instalment asserted claims aggregating KD 3,724,881 (approximately US$12,888,862) for loss of real property. These claims relate to damage to various freehold and leasehold premises in Kuwait.

32. The real property claims in this instalment do not raise any new legal or verification and valuation issues. The compensability standards and the verification and valuation methodology adopted by the Panel for loss of real property claims are stated in paragraphs 89-101 of the First "E4" Report.

33. The nature of damage to the properties and the location of the affected properties in Kuwait established that the losses were a direct result of Iraq's invasion and occupation of Kuwait. The claims were either based on the actual costs incurred in repairing the properties or on estimates of such costs.

34. Most of the claimants submitted documents that were sufficient to establish their interest in the affected properties and the loss claimed. However, as was the case in earlier "E4" instalments, the claimants generally did not exclude regular maintenance or depreciation costs from their claims. The Panel adjusted the claims to account for these costs, which would have been incurred in the normal course of business and were not a direct result of Iraq's invasion and occupation of Kuwait. There was no indication of any "betterment", as explained in paragraph 97 of the First "E4" Report, in any

of the claims, except in one claim where the claimant had already made provisions therefor in its calculation of the losses suffered.

35. In claims based on estimated repair costs, the Panel sought a reasonable explanation for the claimant's failure to repair or replace the affected property. Where such explanation was absent, the Panel adjusted the claim to offset the "risk of overstatement" created by this shortcoming.

36. The Panel's recommendations with respect to real property losses are set out in annex II.

C. Tangible property, stock, cash and vehicles

37. A majority of the seventh instalment claimants have claimed for tangible property losses. These losses include losses relating to stock, furniture and fixtures, equipment, vehicles and cash. The aggregate asserted amount for these losses is KD 43,911,596 (approximately US$151,943,239).

38. The Panel's approach to the verification and valuation of tangible property losses depends on the nature of the asset affected. Accordingly, the approach adopted varies for stock, cash, vehicles and other tangible property losses. The verification and valuation methodology for these tangible property claims is stated in paragraphs 108-135 of the First "E4" Report. (See also, Second "E4" Report, paras. 53-54 and Fourth "E4" Report, paras. 43-44).

(a) Tangible property

39. Most of the claimants in the present instalment submitted audited accounts to establish the existence, ownership and value of the tangible assets damaged or lost as a direct result of Iraq's invasion and occupation of Kuwait. In establishing the fact and cause of the loss, the claimants relied on assertions in their statements of claim and witness statements. These assertions were generally corroborated by additional documents, such as photographs and independent survey reports. The Panel also relied on the claimants' post-liberation audited accounts. These accounts showed the losses of tangible property as extraordinary losses incurred as a direct result of Iraq's invasion and occupation of Kuwait, and as such provided additional independent verification of the loss.

40. A number of claimants sought to value their loss using estimated repair or replacement costs. As in the case of similar real property claims, such claims were found to present a "risk of overstatement" if the claimant did not provide sufficient evidence explaining why it had not repaired or replaced the assets concerned. In some cases the Panel was able to rely on the claimant's post-liberation accounts to determine whether the claimant had subsequently repaired or replaced the affected assets.

(b) Stock

41. For claimants asserting a loss of stock claim, the existence, ownership and value of stock lost were supported by copies of the claimants' audited accounts, original inventory purchase invoices and "roll-forward" calculations, as defined in paragraph 119 of the First "E4" Report.

42. As was the case for the first instalment of "E4" claims, successful claims for loss of goods in transit related to goods that were in Kuwait on the day of Iraq's invasion and that were subsequently lost. These claimants were able to establish the ownership, existence and loss of the goods by providing certificates issued by port authorities or shipping agents.

(c) Cash

43. As was the case for the first instalment of "E4" claims, successful claimants alleging cash losses were able to substantiate their claims by providing, inter alia, contemporaneous records establishing cash held on 2 August 1990, such as previous month-end cash balances, copies of daily bank deposit statements, cash-flow registers and monthly sales ledgers.

44. The claimants for whom no award has been recommended generally sought to rely on witness statements without providing any additional documents substantiating their claims.

(d) Vehicles

45. Almost all of the claimants were able to establish their ownership of lost vehicles, on the date of the loss, by providing copies of the deregistration certificates issued by the Government of Kuwait. The fact of loss was generally established by the deregistration certificates together with additional substantiating documents such as witness statements describing the circumstances of the loss and post-liberation audited accounts recording the loss of vehicles as an extraordinary item.

46. Where claimants did not provide deregistration certificates or any other documentation providing a detailed listing of the vehicles, the Panel recommends no compensation for the claim.

47. The asserted values of the vehicles lost were separately verified by the Panel against vehicle values contained in the M.V.V. Table, as defined at paragraph 135 of the First "E4" Report, or, for vehicles not listed in the M.V.V. Table, against other third party estimates. In the case of third party estimates, the Panel tested these estimates by applying alternative

valuation methods such as the net book value and depreciated replacement cost methods.

48. The Panel's recommendations with respect to tangible property losses are set out in annex II.

D. Payment or relief to others

49. Nine claimants in this instalment submitted claims aggregating KD 808,042 (approximately US$2,795,993) for payment or relief to others.

50. When reviewing claims for payment or relief to others the Panel applied the same approach and verification and valuation methodology described in earlier "E4" reports. (See paragraphs 153-157 of the First "E4" Report; paragraphs 71-74 of the Second "E4" Report and paragraphs 59-64 of the Fourth "E4" Report.)

51. Several of the claimants seek reimbursement for redundancy payments or "termination indemnities" that were paid to their non-Kuwaiti employees in respect of the termination of those employees' employment contracts. Generally, the claimants provided schedules naming the employees who received relief payments. The claimants also provided the employees' civil identification numbers or passport numbers. In two claims, namely, House of Trade & Contracting Company and Abdul Aziz & Ali Yousef Al-Muzaini Company W.L.L., adjustments were made due to the lack of sufficient evidence. In lieu of receipts of payment, the claimants provided certifications from their respective auditors which state that a sample of the payment documents or receipts related to the indemnity payments have been examined and verified by the auditors. Without additional corroborative evidence, the Panel considers these claims to present risks of overstatement. One claimant, Constantine Halkias & Partner, Kuwait W.L.L., provided a similar certification from its auditors and a signed receipt of payment for part of the amount claimed. In this claim, adjustments were made for that part of the claim amount unsupported by proof of payment. Another claimant, Kuwait Fairs Company failed to provide payment receipts or other documents establishing actual payment of amounts to its named employees. In view of the lack of evidence to substantiate the claim, the Panel recommends no compensation for this claim.

52. A claim is also made by Otis Elevators Company/Kuwait KSC (Closed) for costs paid to help staff members travel to their home countries or to countries where they could find work during Iraq's occupation of Kuwait. The claimant also seeks compensation for costs paid to employees for school fees, rents, car rental, and other expenses. The claimant provided a letter from Otis Elevator International, Inc. which states the amount charged to the claimant for the repatriation of the claimant's employees and other expenses paid by Otis Elevator International, Inc. during the occupation. However,

the claimant failed to prove that the expenses incurred were incremental in nature rather than ordinary business costs. In addition, the claimant also failed to provide the employees' civil identification numbers, payment receipts or alternative evidence to establish actual payment of amounts to employees. In light of these evidentiary shortcomings, the Panel recommends no compensation for this claim.

53. Two claimants, Al Faiha Co-Operative and Kifan Co-Operative Society, seek compensation for the value of goods and cash that they freely distributed to the general public during the occupation period. The claimant cooperatives were established by the citizens of the residential areas in which they are located. Their declared main purpose is to meet the needs of their members and shareholders who are the residents in the area. In view of the claimants' declared objectives, the Panel finds that such distribution of goods and cash primarily resulted from the fulfillment of the claimants' business objectives and is thus part of the normal conduct of their operations. The goods were not lost to the claimants as a direct result of Iraq's invasion and occupation of Kuwait but rather as a result of the claimants' declared business objectives. Hence, the Panel finds that the asserted distribution of goods such as those made by the claimants are not compensable.

54. Tariq Al-Ghanim Co. Ltd. seeks reimbursement for the cost of meals provided for the month of August 1990 to the patients and staff of hospitals run by the Kuwait Ministry of Health. The claimant had been providing catering services to these hospitals since 1987. It was the practice of the responsible hospital officials to sign the receipt for meals provided during the week at the end of each week. The claimant continued to serve meals to the hospitals and made use of its consumable and perishable stock until 31 August 1990 when it ceased operations due to a lack of staff. However, due to the invasion of Kuwait by Iraq and the ensuing breakdown of law and order in the country, the claimant was unable to secure the necessary signatures for the continuation of the provision of meals to the hospitals. The decision to continue serving meals during the early period of the occupation was made by the claimant in the course of the contractual relations with its clients, in anticipation of the resumption of normal operations, and as a humanitarian act. As such, the Panel finds that the expenses being claimed are in the nature of temporary and extraordinary costs, incurred by the claimant in order to bridge a contractual gap when business relations with its customers were suspended as a result of Iraq's invasion and occupation. The claimant provided sufficient evidence to prove the existence of the stock used for the meals, and records that documented the cost of the meals provided. Likewise, proof was submitted showing the receipt of the meals by the patients and staff of the hospital during the month of August 1990. In view of the above findings, the Panel recommends compensation for this claim.

55. The Panel's recommendations with respect to payment or relief to others are set out in annex II.

E. Loss of profits

56. In excess of 80 per cent of the claimants in this instalment submitted claims aggregating KD 20,899,763 (approximately US$72,317,519) for loss of profits.

57. Four significant legal and factual issues raised by the first instalment claims are all raised in the seventh instalment claims. These issues relate to the impact and assessment of (i) benefits received under the Government of Kuwait's post-liberation debt settlement programme, (ii) windfall or exceptional profits earned by the claimants in the period immediately following the liberation of Kuwait, (iii) the indemnity period immediately following the liberation of Kuwait, and (iv) claims for loss of profits selectively based on profitable lines of business. The conclusions reached by the Panel in relation to these issues are set forth in paragraphs 161-193 of the First "E4" Report. The Panel has applied these conclusions in its considerations and recommendations for the loss of profits claims in the present instalment.

58. The verification and valuation methodology adopted by the Panel for loss of profits claims is as set forth in paragraphs 194-202 of the First "E4" Report.

59. Of the fifteen claims for loss of profits for which the Panel recommends no compensation, twelve claims posted negative historical averages in their profit figures based on the financial statements provided for the three-year period prior to Iraq's invasion of Kuwait. Historical results that showed net losses from the business operations failed to support the claims for loss of profits and hence, the Panel recommends no compensation for these claims.

60. One claimant, Owais Al Ajmi Grocery Company, failed to provide any form of documentation or financial records of its business operations. While the claimant explains that it was not legally required to prepare financial accounts, it still failed to provide alternative bases for the computation of its alleged losses, such as internal accounts or purchase receipts and sales invoices. In view of such evidentiary shortcomings, the Panel recommends no compensation for this loss of profit claim. Likewise, Al Aqmar Alsinayyah Co., which asserts loss of projected rental income, failed to provide any financial records or alternative documentation on which to base the calculation of its historical profitability. The claimant calculated its loss by taking the projected rent for thirteen months for an apartment building that was under construction at the time of Iraq's invasion. The claimant did not provide direct documentation showing the existence or

construction of the building, nor were rental contracts submitted in support of the projected revenues. In view of the insufficiency of the evidence submitted, the Panel recommends no compensation for this loss of contract claim.

61. Fawaz Refrigeration & Air-conditioning Co. seeks compensation for expenses incurred during the promotion of a new line of business. The claim is based on the portion of expenses incurred in 1989 that was deferred to the years 1990 and 1991. The claim has been reclassified from "Other losses" given that the claimant's profitability is a function of its operating revenues less its operating expenses. However, the historical results of the claimant's operations show a net loss and thus, the Panel recommends no compensation for this loss of profit claim.

62. The Panel's recommendations with respect to loss of profits are set out in annex II.

F. Receivables

63. Sixteen claimants in this instalment asserted claims for uncollectible receivables or "bad debts" aggregating KD 4,091,779 (approximately US$14,158,405). The majority of these claims were for amounts owed by businesses or individuals located in Kuwait prior to Iraq's invasion.

64. As was the case in previous instalments of "E4" claims, most of the claimants sought compensation for debts that remained uncollected because debtors had not returned to Kuwait after liberation. The issue raised is whether the uncollected debts had become uncollectible as a direct result of Iraq's invasion and occupation of Kuwait.

65. The Panel reiterates the "E4" Panel's determination on this issue as set out in paragraphs 209-210 of the First "E4" Report, namely that claims for debts that have become uncollectible as a result of Iraq's invasion and occupation of Kuwait, must demonstrate, by documentary or other appropriate evidence, the nature and amount of debt in question and the circumstances that caused the debt to become uncollectible.

66. The seventh instalment claims for uncollectible receivables were verified and valued in the manner described in paragraphs 211-215 of the First "E4" Report.

67. As discussed in the First "E4" Report, the Panel disallows claims that rely on the mere assertion that uncollected debts are ipso facto uncollectible because the debtors did not return to Kuwait. A number of claimants failed to disclose the nationalities of their debtors or provide evidence to demonstrate that their debtors' inability to pay was a direct result of Iraq's invasion and occupation of Kuwait. This shortcoming was

brought to the attention of the claimants in the context of the additional information requested from the claimants by the secretariat (see para. 17 above). While a number of responses were received from the claimants, none satisfied the above criteria.

68. The Panel's recommendations with respect to bad debts claims are set out in annex II.

G. Restart costs

69. Ten claimants in this instalment asserted claims aggregating KD 476,976 (approximately US$1,650,436) for restart costs. The amounts claimed as restart costs have been reviewed using the methodology discussed in paragraphs 221-223 of the First "E4" Report and paragraphs 93-96 of the Second "E4" Report. (See also, Fourth "E4" Report, paras. 87-89.) Thus, the Panel verifies whether the claim is a direct result of Iraq's invasion and occupation of Kuwait and is supported by proof of payment for the items claimed. In this regard, the Panel looks for similar evidence of payment to that required in the case of claims for payment of relief to others. The Panel disallows amounts claimed that are not supported by sufficient documentary evidence to prove that payments were actually made by the claimant. The Panel then verifies whether the cost is an incremental cost to the claimant, i.e., in excess of costs normally incurred by the claimant for this type of expense. Finally, the Panel considers whether the claimant has taken appropriate steps to mitigate its loss.

70. The Panel encountered claims in this category for the costs of returning employees to Kuwait, including airfares and expenses for recruiting new employees, costs of cleaning-up the claimant's premises to restart its business operations and for setting up temporary offices outside Kuwait during the occupation period.

71. In a few claims, no documentation was provided to support the contention that the asserted expenses had been incurred by the claimant or that the expenses were incremental in nature. In the claim by Kuwait Lube Oil Manufacturing Co., reimbursement is sought for, among others, spare parts, hotel expenses, rental car expenses, official fees, various costs and rental expenses for a temporary office in London which enabled the claimant to maintain contact with its supplier during the occupation period. Except for the asserted rental expenses, the claimant failed to provide any explanation concerning the other expenses included in the claim. The claimant provided a schedule of expenses and invoices that do not show whether the expenses were incremental costs to the claimant. In addition, the schedule and the invoices do not disclose any rental expenses for a temporary office in London. With respect to the expense for the purchase of office stationery, however, the Panel finds the expense to be reasonable and sufficiently substantiated by the claimant and hence, recommends compensation

therefor. In the claims submitted by Asia Electro Mechanical Co. Ltd. and Al Intisar Trading Co. for costs related to recruiting or returning personnel to Kuwait, the claimants failed to provide sufficient evidence that the costs had been incurred, nor provide information on the employees' civil identification numbers. In view of such evidentiary shortcomings, the Panel recommends no compensation for these claims for restart costs.

72. The Panel's recommendations with respect to restart costs are set out in annex II.

H. Other losses

73. Fifteen claimants in this instalment asserted claims aggregating KD 960,821 (approximately US$3,324,640) for other losses.

74. A few claimants seek compensation for losses suffered as a result of their receipt of cancelled Kuwaiti dinar currency notes. These notes were received by the claimants who continued to conduct business during Iraq's occupation of Kuwait. The Panel recommends compensation for these claims for the reasons stated in paragraphs 93 and 94 of the Fourth "E4" Report.

75. In relation to claims for losses incurred when the claimants were forced to accept Iraqi dinars for products sold during Iraq's invasion and occupation of Kuwait at an exchange rate of one Iraqi dinar to one Kuwait dinar, the Panel applied the recommendations stated in paragraphs 95-97 of the Fourth "E4" Report.

76. Other claims were for rents paid in advance for shop premises for the months during the period of Iraq's occupation. The Panel notes that such payments are "sunk" costs that were incurred prior to Iraq's invasion and occupation of Kuwait. Furthermore, the Panel notes that any damages suffered by the claimant in this regard (e.g., profits lost due to the claimant's inability to use its premises) should be reflected in a claim for loss of profits. The Panel applied this same approach in its analysis of other claims for pre-paid expenses. Accordingly, the Panel finds that such claims are not compensable.

77. Austrian House for Lighting & Electrical Co. Kuwaiti Company W.L.L. seeks compensation for bank charges associated with the opening of letters of credit that were not fulfilled as a result of Iraq's invasion and occupation of Kuwait. The claimant did not demonstrate that the amounts claimed are extraordinary amounts, i.e., that they constitute incremental costs over and above similar costs normally incurred in the course of its business and therefore, the Panel recommends no compensation for this claim.

78. Kuwait Motoring Company seeks compensation for depreciation on its fixed assets, incurred during Iraq's invasion and occupation of Kuwait. The

Panel recommends no compensation for depreciation, as this is a normal cost incurred in the course of claimant's operations.

79. International Financial Line Company W.L.L. seeks compensation for travellers cheques and personal cheques in different currencies taken from its safe. One of the claimant's main activities was the purchase of such cheques. The claimant normally made its purchases from Saturday to Thursday and then remitted the cheques for collection on that same Thursday. Given that the date of the invasion fell on a Thursday, the Panel considers it reasonable that the claimant would have had cheques for that week remaining in its safe. The claimant provided a witness statement attesting to the stolen cheques, a listing of the cheques lost, the currency in which the cheques were drawn, and the invoices of cheques purchased immediately prior to the invasion. It is not possible to distinguish, from the schedule and invoices provided, which of the purchases listed pertain to purchases of personal cheques and which are for travellers cheques. The claimant states that it tried to collect on the personal cheques but was either unsuccessful in locating the issuers thereof or was refused payment by those it had located. Similarly, the claimant stated that it contacted the foreign banks that issued the travellers cheques but was not able to recover any amount from them since it failed to provide sufficient information to the banks concerning the sellers of the travellers cheques. The claimant failed to submit documentary evidence of its correspondence with the foreign banks and with the issuers of the personal cheques other than the narrative provided. Insofar as the losses relating to the purchase of personal cheques are concerned, the Panel considers such cheques to be debts owing to the claimant and hence, applies the same evidentiary standards required under a bad debts claim. In this instance, the claimant failed to demonstrate that the issuers of the personal cheques had become insolvent or that their failure to pay was a direct result of Iraq's invasion of Kuwait. As regards the losses pertaining to the travellers cheques, the claimant's inability to recover was directly caused by its failure to keep records of the details of the sellers of the travellers cheques. Thus, the Panel finds that the claimant has failed to sufficiently establish the causal link between its asserted losses and Iraq's invasion and occupation of Kuwait. In view of the stated evidentiary shortcoming and failure to prove direct causation, the Panel recommends no compensation for this claim.

80. Abdelrahman Mulla Hussain Sons & Partners Co. seeks reimbursement for payment made to a construction contractor for losses incurred by the contractor during Iraq's occupation of Kuwait while working on a project for the claimant. The claimant voluntarily reimbursed the contractor for these expenses so that the contractor would continue with the project. The claimant did not show whether it would have suffered losses if the contractor had suspended the construction project. In view of the failure to sufficiently establish the causal link of the asserted losses to Iraq's

invasion and occupation of Kuwait, the Panel recommends no compensation for this claim.

81. The Panel's recommendations with respect to other losses are set out in annex II.

V. OTHER ISSUES

A. Applicable dates for currency exchange rate and interest

82. In relation to determining the applicable dates for the currency exchange rate and interest, the Panel adopts the approach discussed in paragraphs 226-233 of the First "E4" Report.

B. Claim preparation costs

83. The Panel has been informed by the Executive Secretary of the Commission that the Governing Council intends to resolve the issue of claim preparation costs in the future. Accordingly, the Panel makes no recommendation with respect to compensation for claim preparation costs.

VI. RECOMMENDED AWARDS

84. Based on the foregoing, the awards recommended by the Panel for the claimants in the seventh instalment of "E4" claims are set out in annex I to this report. The underlying principles behind the Panel's recommendations on claims in this instalment are summarized in annex II to this report. All sums have been rounded to the nearest KD and therefore the amounts may vary from the stated amount on Form E by 1 KD.

Geneva, 9 December 1999

(Signed) Luiz Olavo Baptista
Chairman

(Signed) Jean Naudet
Commissioner

(Signed) Jianxi Wang
Commissioner

[ENGLISH ONLY]

Annex I

Recommended awards for the seventh instalment of "E4" claims
Reported by UNSEQ and UNCC claim numbers and claimant name

UNSEQ claim no.*	UNCC claim no.	Claimant's name	Amount claimed (KD)	Net amount claimed (KD)**	Amount recommended (KD)	Amount recommended (US$)
E-00501	4003668	Hadlan General Trading & Cont. Co. (W.L.L.)	18,111	16,403	5,538	19,143
E-00503	4003669	Nazhan & Sons Corporation for General Trading, Contract	265,568	264,818	139,350	482,087
E-00504	4003670	Kuwait Belgium Diamond Company	81,650	81,650	53,072	183,640
E-00505	4003671	Abdulrahman Mansour Al-Zamil & Sons Company	108,989	99,373	58,900	203,595
E-00506	4003672	Kuwait Lube Oil Manufacturing Co.	1,151,396	1,141,051	752,986	2,603,787
E-00507	4003673	Hassan & Fouani For Readymade Clothes	232,770	231,770	150,218	519,439
E-00508	4003674	International Financial Line Company W.L.L.	241,297	237,757	130,229	449,279
E-00509	4003675	Printed Circuits & Electronic Industries W.L.L.	438,773	436,773	149,021	515,643
E-00510	4003623	Fayasel Trading & Contracting Co. W.L.L.	809,067	675,288	332,938	1,151,951
E-00511	4003624	Ghanim General Trading Co. W.L.L.	252,326	250,826	202,984	702,052
E-00512	4003625	Al Humaidhi Trading & Contracting Co.	125,392	124,392	65,022	224,990
E-00513	4003626	Al Khoumassi Shopping Center Company W.L.L.	1,073,394	1,061,394	250,053	864,436
E-00514	4003627	Ariyan Electronic Co./ Ahmed Abdulnabi Ariyan	121,688	104,916	72,323	250,016
E-00515	4003628	Silver Torch General Trading Co./ Khalid Abdulmuhssen Al-Mukhaizeem & Sons	654,567	654,567	72,161	249,654
E-00517	4003630	Shehimi Trading Co.	1,608,079	1,608,079	487,165	1,685,693
E-00520	4003633	Al-Hadi Trading & Contracting Co.	34,952	34,952	15,104	52,222
E-00521	4003634	Al Mulla Real Estate Co.	240,858	219,128	198,596	685,011
E-00522	4003635	Itarco Trading Company	318,748	318,748	243,068	841,066
E-00523	4003636	Al-Manea Trading & Contracting Co.	423,777	415,777	200,225	692,820
E-00524	4003637	Mohamed Saad Al Kuwaitia Driving Training	16,178	16,178	8,885	30,744

Annex I

Recommended awards for the seventh instalment of "E4" claims
Reported by UNSEQ and UNCC claim numbers and claimant name

E-00525	4003638	Kuwait Commercial Agency Co.	125,265	113,362	110,642	381,952
E-00526	4003639	El Talea General Trading & Contractor Co. W.L.L.	366,519	366,519	122,276	423,100
E-00527	4003640	Hamad Al-Hamad & Partners Co., for Well Drilling, Trading & Maintenance W.L.L.	799,070	799,070	300,573	1,040,045
E-00528	4003641	Alsayer & Al Tarabishi Company	112,822	112,222	51,031	176,579
E-00529	4003642	Al Asriyah Livestock Company W.L.L.	600,083	597,583	377,474	1,304,233
E-00530	4003643	Al-Jabriyah Furniture Furnishings & Decorations Co.	235,344	235,344	108,625	375,711
E-00531	4003695	Farhan Mesa'eed & Hussin Krayem Trading Company	130,284	129,284	103,427	357,879
E-00532	4003696	Awlad Khalifa D. Al-Dabbous Trd.	448,080	446,580	267,948	924,224
E-00533	4003697	Athari United General Trading & Contracting Co.	119,654	119,654	43,398	149,909
E-00534	4003698	Al-Khamis Trading & Contracting Co. W.L.L.	417,515	415,015	345,139	1,194,253
E-00535	4003699	Asia Electro Mechanical Co. Ltd	533,021	492,577	132,820	458,764
E-00536	4003700	Carton Industries Company - K.S.C. (Closed)	2,000,898	1,999,258	1,276,677	4,408,026
E-00537	4003701	Ismail Dashti Sons & Partners G. Trading & Contracting Co.	68,967	68,967	42,267	146,253
E-00538	4003702	Ahmadiah Real Estate Company S.A.K. (Closed)	99,833	88,509	65,148	225,192
E-00539	4003703	Tariq Al-Ghanim Co. Ltd.	1,086,323	982,991	526,330	1,820,343
E-00540	4003704	Bouftain Haloul Trading Co.	47,705	47,705	25,102	86,817
E-00541	4003705	Bohsali Patisserie Co. W.L.L.	127,568	126,568	61,261	211,799
E-00542	4003609	Gulf Newspaper Distribution Company (S.A.K.) (Closed)	41,621	40,621	12,468	43,125
E-00543	4003610	Mohamad & Haedrous Co. for Ready-Made Clothes W.L.L.	535,205	534,305	369,537	1,278,039
E-00544	4003611	Owais Al Ajmi Grocery Company	15,862	15,162	2,833	9,803

Annex I

Recommended awards for the seventh instalment of "E4" claims

Reported by UNSEQ and UNCC claim numbers and claimant name

E-00545	4003612	Baqar Hussain & Hussain Kharasani for Foodstuff Co. W.L.L.	750,270	748,270	488,784	1,690,383
E-00547	4003614	Mohamed Saleh Behbehani & Company W.L.L.	714,130	660,704	109,858	379,764
E-00548	4003615	National Insurance Services Group K.S.C. (Closed)	50,371	49,121	0	0
E-00549	4003616	Al-Faiha Co-Operative	1,125,721	1,124,771	255,032	882,463
E-00550	4003617	Kifan Co-Operative Society	1,349,723	1,348,823	790,168	2,734,146
E-00551	4003618	Wael Al-Nusif & Partners Trading Company W.L.L.	2,029,500	1,774,148	1,361,037	4,709,371
E-00552	4003619	Batool Fashions Co.	262,340	237,626	136,552	472,498
E-00553	4003620	Gulf House for General Trading & Contracting Company	82,573	82,573	62,897	217,172
E-00554	4003621	Abdelrahman Mulla Hussain Sons & Partners Co.	70,275	70,275	32,306	111,700
E-00555	4003622	Modern Real Estate Company	206,100	204,950	163,960	567,336
E-00556	4003676	Maraheb Dept. Store	312,680	311,930	66,977	231,288
E-00557	4003677	Anwar Readymade Garments Exhibition Co. W.L.L.	486,491	485,491	324,353	1,122,292
E-00558	4003678	Mohamed Abdulla Mohamed Al-Bahar & Partners Real Estate Co. W.L.L.	227,704	198,247	161,067	555,563
E-00559	4003679	Hassan Al-Wazzan and Fahmi Al-Faisel for Car Spare Parts	149,943	148,943	69,171	239,262
E-00560	4003680	Mousa & Abdulwahab Al-Naki Co.	446,111	444,611	394,391	1,367,140
E-00561	4003681	Austrian House for Lighting & Electrical Co. Kuwaiti Company W.L.L.	40,706	40,706	30,495	106,259
E-00563	4003682	Al Panda Restaurant Company	67,783	66,263	44,785	154,733
E-00564	4003683	Mohamed Abdulla Alrabiah & Partners Company	2,412,586	2,254,679	1,624,006	5,605,264
E-00565	4003684	Khalid Ali Al Khorafi & Bros. Co.	1,509,979	1,471,448	403,771	1,336,993
E-00566	4003685	Al-Khulaifi and Partners Company for Sanitary Ware and Building Material	1,530,896	1,524,896	1,286,852	4,306,204
E-00567	4003686	Central Circle Co.	237,560	237,560	142,559	491,051

Annex I

Recommended awards for the seventh instalment of "E4" claims
Reported by UNSEQ and UNCC claim numbers and claimant name

E-00569	4003706	Kuwait National Cinema Company	2,341,399	2,169,631	1,224,953	4,237,985
E-00570	4003707	Seven Up Bottling Co.	2,483,752	2,216,681	916,538	3,170,884
E-00571	4003708	Arabi Company W.L.L.	1,071,555	1,070,055	918,573	3,178,453
E-00572	4003709	Otis Elevators Company/Kuwait KSC (Closed)	632,209	626,209	125,962	435,772
E-00574	4003710	Al-Judaimi For Crushing Shingles and Trading Co.	21,777	20,667	19,431	67,023
E-00575	4003711	Al Bait Al Mamor Trading Co.	616,499	616,499	366,301	1,267,477
E-00576	4003712	Muneera Restaurant Co.	74,332	74,007	57,386	198,366
E-00577	4003713	Sultan Ben Eisa Sons Company	1,746,187	1,476,138	897,223	3,104,578
E-00578	4003714	Jassim Al Asfoor Trading Company	260,371	259,136	232,458	804,081
E-00579	4003715	Kuwait Aluminium and Brass Inaust Company	1,766,397	1,573,613	826,000	2,857,741
E-00580	4003716	Kuwait Fairs Company K.S.C. (Closed)	539,281	479,116	196,745	680,481
E-00581	4003717	Al-Tamathal Real Estate Trading Company	19,386	19,386	6,230	21,489
E-00582	4003718	Kuwait Pritchard for Cleaning and Maintenance	474,651	472,151	287,575	994,980
E-00583	4003719	Hawazen for General Trading and Contracting	58,826	58,076	32,063	110,936
E-00584	4003720	Libirity Trading Co.	109,240	109,240	35,386	122,439
E-00585	4003721	Nakhlit Al Khaleeg Co. for Electric/Hussain Hamzh Abbas Al Koot & Mohamed Salah W.L.L.	6,327	5,327	5,282	18,277
E-00586	4003722	Fawaz Refrigeration & Airconditioning Co.	676,342	563,457	267,259	924,770
E-00587	4003723	Al-Intisar Trading Co.	137,647	135,523	81,920	283,387
E-00588	4003724	Kuwait Metal Container Company	981,485	977,735	586,913	2,029,717
E-00590	4003725	National Automotive Manufacturing Trading Co. (K.S.C.)	2,399,534	2,390,448	482,689	1,670,206
E-00591	4003726	Kuwait International Investment Co.-K.S.C.	1,621,705	1,609,205	7,614	26,346
E-00592	4003727	Al Qahtani General Trading and Contracting Co. W.L.L.	388,126	385,722	368,952	1,276,526

Annex I

Recommended awards for the seventh instalment of "E4" claims

Reported by UNSEQ and UNCC claim numbers and claimant name

E-00593	4003728	Johra Al-Hazim Electrical Contractors Co.	25,000	25,000	13,520	46,782
E-00595	4003688	Saeed & Samir Bookshop Company W.L.L.	99,958	97,458	76,234	263,634
E-00596	4003689	Kuwait Electrical Wiring Accessories Co.	1,193,987	1,188,187	509,133	1,760,452
E-00597	4003690	Al-Khadari and Al-Hassan Trading Company	85,510	76,394	39,689	137,091
E-00598	4003691	Al Sirb Fashons Co. W.L.L.	313,614	312,614	237,482	821,319
E-00600	4003692	Abdul Mohsen Hassan Al-Wazan & Partners Co.	207,265	207,265	42,235	145,928
E-00601	4003693	Ali Ahmad Shawaf & Bros. Co.	2,237,433	2,235,725	185,675	642,474
E-00602	4003694	Al-Nisf Limited Company/Hamoud Al-Nisf & Co. W.L.L.	437,931	434,931	8,305	28,737
E-00603	4003749	Kuwait Motoring Company	982,294	982,294	246,211	851,941
E-00604	4003750	Momtaz Company for Textile/Abdraham Gomol Aldin Kashlan & his Partners W.L.L.	71,306	70,806	50,854	175,887
E-00605	4003751	Ahlia International Trading and Import Company	65,031	60,057	59,151	204,674
E-00606	4003752	Al Homaizi Building Material Co. Ltd	1,584,799	1,580,299	1,261,622	4,362,833
E-00607	4003753	House of Trade and Contracting Company W.L.L.	2,211,045	1,972,335	832,142	2,879,385
E-00608	4003754	Adnan Al Mousa & Bitar Textile Co.	26,608	23,043	4,482	15,470
E-00609	4003729	Kuwait Tannery Company	1,693,116	1,691,366	1,323,530	4,577,676
E-00610	4003730	That Al-Salasel Company	654,589	653,339	497,501	1,720,819
E-00611	4003731	Abdullah Almishari and Abdulmohsin Alkhatrash Company W.L.L.	524,220	520,495	354,379	1,225,000
E-00612	4003732	Ibrahim Moh'd Al Rukhis and Sons General Trading and Contracting Company	2,387,327	2,032,293	1,624,382	5,620,699
E-00613	4003733	Badr Alsultan & Brother Co.	810,654	808,154	448,294	1,550,107
E-00614	4003734	Nablus for Glass and General Trd. Co.	588,166	514,250	329,751	1,140,713
E-00615	4002401	Fresh Fruit Company	686,266	684,346	200,442	692,865
E-00616	4003735	Al-Nahdah Store Co. W.L.L.	324,069	320,225	149,452	516,844
E-00617	4003736	Al-Hazeem Readymade Garments Co.	28,000	28,000	11,200	38,754

Annex I

Recommended awards for the seventh instalment of "E4" claims

Reported by UNSEQ and UNCC claim numbers and claimant name

E-00618	4003737	Agricultural Development Company	259,019	258,019	191,237	661,553
E-00619	4003738	Abdulaziz Abdulmohsen Al-Rashed Sons Company	779,175	776,675	291,036	1,007,045
E-00620	4003739	Saud Al-Aujan and Brothers Co. Limited Liability Company	417,207	412,451	257,026	889,363
E-00621	4003740	Alkalegaia Transportation Company	37,676	37,676	30,790	106,540
E-00622	4003741	Al Khaldiah Steel Contr. Co. W.L.L.	49,792	49,792	35,643	123,332
E-00623	4003742	Raghad Jewellery Company	2,432,275	2,429,275	1,187,965	4,106,218
E-00624	4003743	Golden Scale Company	67,842	67,842	11,037	38,190
E-00625	4003744	Al Aqmar Alsinayyah Co.	51,216	51,216	18,920	65,467
E-00626	4003745	Kuwaitana Restaurants Company	53,436	47,400	42,293	146,342
E-00627	4003746	Zina Trading Centre Company W.L.L.	342,077	340,077	259,490	897,890
E-00628	4003747	Abdul Aziz & Ali Yousef Al-Muzaini Company W.L.L.	653,034	580,743	146,474	506,830
E-00629	4003748	General Trading Company W.L.L.	438,023	436,023	359,691	1,243,107
E-00630	4003755	Al-Hazim Building & Roads Cleaning Company	25,200	25,200	19,532	67,585
E-00631	4003756	Albelajat Co. for Cars Spare Parts	33,813	31,813	24,160	83,561
E-00632	4003757	Kuwait International Automobile Club Co.	192,371	192,371	159,291	549,796
E-00633	4003758	Musaed Abdullah Al-Sayer & Co.	126,513	123,313	14,448	49,946
E-00634	4003759	Al-Bader & Bahjat Hassan Co. Ltd.	28,694	28,694	11,348	39,226
E-00635	4003760	European Exhibition for New Furniture Co.	534,176	533,426	212,819	736,398
E-00637	4003761	Al-Shayji Factory for Carpentry Company	156,785	153,785	95,868	331,723
E-00638	4003762	Mahboub Trading Company Ltd.	139,505	139,005	114,136	394,935
E-00639	4003763	Gulf Deep Foundation International Contracting Company	2,193,540	2,190,540	1,693,834	5,860,926
E-00640	4003764	All Season Readymade Garments Co.	25,896	25,896	18,419	63,734
E-00641	4003765	Al-Tair Taxi Co./Ali Hossain, Ali Kamal & His Son	72,543	66,236	38,621	133,637

Annex I

Recommended awards for the seventh instalment of "E4" claims

Reported by UNSEQ and UNCC claim numbers and claimant name

E-00642	4003766	Jawharat Al Nuaman for Building Contracting Co.	6,692	6,192	1,649	5,706
E-00643	4003767	Smile Electonics & Computer Systems Company	89,207	88,192	35,148	121,619
E-00644	4003768	Constantine Halkias & Partner, Kuwait (W.L.L.)	712,208	622,536	370,229	1,280,850
E-00645	4003769	Kuwait Metal Collecting & Shredding Co.	798,315	796,480	383,368	1,325,300
E-00646	4003770	Activity Company for Refreshment & Sweetmeats W.L.L.	43,054	42,054	24,270	83,980
E-00647	4003771	Alothman & Al-Ashy Trading Stores Company (W.L.L.)	111,053	110,153	60,342	208,783
E-00648	4003772	Yousif Ibrahim Al-Ghanim & Partner - W.L.L.	1,934,832	1,931,548	786,396	2,718,142
E-00649	4003773	Alghanim & Alkhoury Construction Co. W.L.L.	174,329	172,129	104,323	360,979
E-00650	4003774	Phoenicia Hotel Co. W.L.L.	34,575	30,640	19,827	68,606
E-00651	4003775	Marketing Projects for Trading and Contracting	350,221	346,935	40,094	138,734
		TOTAL	79,222,071	76,182,396	39,290,678	135,879,257

* The UNSEQ number is the provisional claim number assigned to each claim by PAAC

** The "Net amount claimed" is the original amount claimed less amount claimed for claim preparation costs and interest.

As set forth in paragraphs 82 and 83 of the report, the Panel has made no recommendation with regard to these items.

[ENGLISH ONLY]

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Hadlan General Trading & Cont. Co. W.L.L.
UNCC claim number:	4003668
UNSEQ number:	E-00501

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	12,306	5,538	Claim adjusted for evidentiary shortcomings.
Other loss not categorised	4,097	0	Original tangible property claim reclassified to other loss not categorised. Insufficient evidence to substantiate claim.
TOTAL	16,403	5,538	

Claim preparation costs	149	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	1,559	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Nazhan & Sons Corporation for General Trading, Contract
UNCC claim number: 4003669
UNSEQ number: E-00503

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	7,000	5,600	Claim adjusted for maintenance.
Loss of tangible property	39,870	36,300	Claim reclassified to loss of tangible property, real property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	106,860	56,252	Claim adjusted for stock build-up and obsolescence.
Loss of vehicles	6,100	5,828	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	49,288	35,370	Claim adjusted to reflect historical results and windfall profits.
Bad debts	53,000	0	Insufficient evidence to substantiate claim.
Other loss not categorised	2,700	0	Insufficient evidence to substantiate claim.
TOTAL	264,818	139,350	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Belgium Diamond Company
UNCC claim number:	4003670
UNSEQ number:	E-00504

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	81,650	53,072	Original tangible property claim reclassified to loss of stock. Claim adjusted for overstocking and evidentiary shortcomings.
TOTAL	81,650	53,072	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Abdulrahman Mansour Al-Zamil & Sons Company
UNCC claim number: 4003671
UNSEQ number: E-00505

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of cash	6,376	0	Original tangible property reclassified to loss of cash. Insufficient evidence to substantiate claim.
Loss of profits	92,997	58,900	Claim adjusted to reflect historical results.
TOTAL	99,373	58,900	

Claim preparation costs	175	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	9,441	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Lube Oil Manufacturing Co.
UNCC claim number:	4003672
UNSEQ number:	E-00506

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	163,516	70,783	Claim adjusted for maintenance, depreciation and evidentiary shortcomings.
Loss of tangible property	290,817	157,198	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	413,817	357,167	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	12,242	12,068	Claim adjusted to reflect M.V.V. Table values. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Loss of profits	233,197	155,496	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
Restart costs	27,462	274	Claim reclassified to restart costs, loss of real property, tangible property, profits and claim preparation costs. Claim adjusted for evidentiary shortcomings and insufficient causation per paragraph 71 of the report.
TOTAL	1,141,051	752,986	

Claim preparation costs	10,345	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Hassan & Fouani for Readymade Clothes
UNCC claim number: 4003673
UNSEQ number: E-00507

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	30,250	24,200	Original tangible property claim reclassified to loss of real property, tangible property, stock and vehicles. Claim adjusted for maintenance.
Loss of tangible property	1,193	1,153	Claim adjusted for depreciation.
Loss of stock	162,433	92,242	Claim adjusted for stock build-up, overstocking, obsolescence and evidentiary shortcomings.
Loss of vehicles	1,015	1,015	Claim awarded in full.
Loss of profits	36,879	31,608	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
TOTAL	231,770	150,218	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: International Financial Lime Company W.L.L.
UNCC claim number: 4003614
UNSEQ number: E-00508

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	19,802	0	Claim reclassified to loss of contract and bad debts. Insufficient evidence to substantiate claim per paragraph 27 of the report.
Loss of tangible property	5,790	4,042	Claim reclassified to loss of tangible property, cash and vehicles. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of cash	7,517	0	Insufficient evidence to substantiate claim.
Loss of vehicles	1,388	1,388	Claim awarded in full.
Loss of profits	153,165	122,532	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
Bad debts	7,903	0	Insufficient evidence to substantiate claim.
Other loss not categorised	22,192	2,267	Cancelled currency claim awarded in full. Claim for loss of cheques not sufficiently substantiated by evidence per paragraph 79 of the report.
TOTAL	237,757	130,229	

Claim preparation costs	3,540	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Printed Circuits & Electronic Industries W.L.L.
UNCC claim number: 4003675
UNSEQ number: E-00509

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	30,000	15,000	Claim adjusted for depreciation.
Loss of tangible property	106,405	85,165	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for failure to repair/replace.
Loss of stock	293,316	42,862	Claim adjusted for evidentiary shortcomings, obsolescence and stock build-up.
Loss of vehicles	7,052	5,994	Claim adjusted for evidentiary shortcomings.
TOTAL	436,773	149,021	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Fayasel Trading & Contracting Co. W.L.L.
UNCC claim number: 4003623
UNSEQ number: E-00510

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	75,590	30,236	Claim adjusted for depreciation and evidentiary shortcomings.
Loss of tangible property	9,441	6,225	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for evidentiary shortcomings.
Loss of stock	549,039	284,508	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of vehicles	8,650	2,317	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	32,568	9,652	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	675,288	332,938	

Claim preparation costs	3,250	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	130,529	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Ghanim General Trading Co. W.L.L.
UNCC claim number:	4003624
UNSEQ number:	E-00511

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	188,614	174,257	Claim adjusted for depreciation.
Loss of profits	62,212	28,727	Claim adjusted to restrict the period of loss to 12 months, to reflect historical results and for windfall profits.
TOTAL	250,826	202,984	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al Humaidhi Trading & Contracting Co.
UNCC claim number: 4003625
UNSEQ number: E-00512

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	120,342	60,972	Claim reclassified to loss of tangible property and vehicles. Original other loss not categorised reclassified to loss of tangible property. Claim adjusted for depreciation, failure to reinstate, evidentiary shortcomings and to reflect recognised exchange rate.
Loss of vehicles	4,050	4,050	Claim awarded in full.
TOTAL	124,392	65,022	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Khoumassi Shopping Center Company W.L.L.
UNCC claim number: 4003626
UNSEQ number: E-00513

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	57,071	28,337	Claim adjusted for depreciation, maintenance and evidentiary shortcomings.
Loss of tangible property	4,591	3,374	Claim reclassified to loss of tangible property, real property and stock. Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	861,812	145,238	Claim adjusted for mathematical error, stock build-up and obsolescence.
Loss of profits	137,920	73,104	Other loss not categorised reclassified to loss of profits. Claim adjusted to reflect historical results.
TOTAL	1,061,394	250,053	

Claim preparation costs	12,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II
Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Ariyan Electronic Co./ Ahmed Abdulnabi Ariyan
UNCC claim number:	4003627
UNSEQ number:	E-00514

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	4,860	3,888	Claim reclassified to loss of tangible property and stock. Claim adjusted for maintenance.
Loss of stock	59,256	46,835	Claim adjusted for stock build-up and obsolescence.
Loss of profits	40,800	21,600	Claim adjusted to reflect historical results, to restrict the period of loss to 12 months and for evidentiary shortcomings.
TOTAL	104,916	72,323	

Claim preparation costs	500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	16,272	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Silver Torch General Trading Co./ Khalid Abdulmuhssen Al-Mukhaizeem & Sons
UNCC claim number: 4003628
UNSEQ number: E-00515

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	10,696	10,646	Claim reclassified to loss of tangible property, stock and bad debts. Claim adjusted for failure to repair/replace.
Loss of stock	367,861	58,050	Stock claim adjusted for overstocking, obsolescence and evidentiary shortcomings. Goods in transit claim adjusted for evidentiary shortcomings and obsolescence.
Loss of profits	184,312	3,465	Claim adjusted to reflect historical results, to restrict the period of loss to 12 months and for evidentiary shortcomings.
Bad debts	91,698	0	Insufficient evidence to substantiate claim.
TOTAL	654,567	72,161	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Shehimi Trading Co.
UNCC claim number:	4003630
UNSEQ number:	E-00517

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	210	210	Claim reclassified to loss of tangible property, stock and vehicles. Claim awarded in full.
Loss of stock	1,511,265	390,735	Stock claim adjusted for evidentiary shortcomings stock build-up and obsolescence. Goods in transit claim adjusted for obsolescence.
Loss of vehicles	1,224	840	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	95,380	95,380	Claim awarded in full.
TOTAL	1,608,079	487,165	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Hadi Trading & Contracting Co.
UNCC claim number: 4003633
UNSEQ number: E-00520

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	8,013	6,630	Original tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for obsolescence.
Loss of vehicles	3,788	3,788	Claim awarded in full.
Loss of profits	23,151	4,686	Claim adjusted to reflect historical results.
TOTAL	34,952	15,104	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Mulla Real Estate Co.
UNCC claim number: 4003634
UNSEQ number: E-00521

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	219,128	198,596	Claim adjusted to reflect historical results.
TOTAL	219,128	198,596	

Interest	21,730	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Itarco Trading Company
UNCC claim number: 4003635
UNSEQ number: E-00522

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	239,053	197,273	Original tangible property claim reclassified to loss of stock. Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of profits	79,695	45,795	Claim adjusted to reflect historical results and to restrict the period of loss to 7.5 months.
TOTAL	318,748	243,068	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Manea Trading & Contracting Co.
UNCC claim number: 4003636
UNSEQ number: E-00523

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	53,543	50,614	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation.
Loss of stock	19,644	15,715	Claim adjusted for evidentiary shortcomings.
Loss of profits	342,590	133,896	Original contracts claim reclassified to loss of profits. Claim adjusted to reflect historical results and to restrict the period of loss to 7 months.
TOTAL	415,777	200,225	

Claim preparation costs	8,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mohamed Saad Al Kuwaitia Driving Training
UNCC claim number: 4003637
UNSEQ number: E-00524

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	16,178	8,885	Claim adjusted for depreciation, failure to repair/replace and maintenance
TOTAL	16,178	8,885	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Commercial Agency Co.
UNCC claim number: 4003638
UNSEQ number: E-00525

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	3,187	2,492	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	7,072	5,410	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of cash	363	0	Insufficient evidence to substantiate claim.
Loss of profits	102,740	102,740	Claim awarded in full.
TOTAL	113,362	110,642	

Interest	11,903	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	El Talea General Trading & Contractor Co. W.L.L.
UNCC claim number:	4003639
UNSEQ number:	E-00526

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	18,670	18,362	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation.
Loss of stock	337,232	99,646	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	10,617	4,268	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	366,519	122,276	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Hamad Al-Hamad & Partners Co., for Well Drilling, Trading & Maintenance W.L.L.
UNCC claim number: 4003640
UNSEQ number: E-00527

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	56,881	56,881	Claim reclassified to loss of tangible property, stock and vehicles. Claim awarded in full.
Loss of stock	365,200	229,171	Claim adjusted for stock build-up and evidentiary shortcomings.
Loss of vehicles	17,083	14,521	Claim adjusted for evidentiary shortcomings.
Loss of profits	359,906	0	Claim adjusted to reflect historical results.
TOTAL	799,070	300,573	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Alsayer & Al Tarabishi Company
UNCC claim number:	4003641
UNSEQ number:	E-00528

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	16,116	9,875	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation.
Loss of stock	79,409	35,192	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	16,697	5,964	Claim adjusted to reflect historical results and to restrict the period of loss to 7 months.
TOTAL	112,222	51,031	

Claim preparation costs	600	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al Asriyah Livestock Company W.L.L.
UNCC claim number: 4003642
UNSEQ number: E-00529

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	167,869	102,235	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation.
Loss of stock	183,129	101,179	Claim adjusted for obsolescence and overstocking.
Loss of profits	246,585	174,060	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
TOTAL	597,583	377,474	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Jabriyah Furniture Furnishings & Decorations Co.
UNCC claim number: 4003643
UNSEQ number: E-00530

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	106,082	50,457	Original tangible property claim reclassified to loss of stock. Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of profits	129,262	58,168	Claim adjusted for windfall profits and evidentiary shortcomings.
TOTAL	235,344	108,625	

Annex II
Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Farhan Mesa'eed & Hussin Krayem Trading Company
UNCC claim number: 4003695
UNSEQ number: E-00531

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	129,284	103,427	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence.
TOTAL	129,284	103,427	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II
Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Awlad Khalifa D. Al-Dabbous Trd.
UNCC claim number: 4003696
UNSEQ number: E-00532

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	446,580	267,948	Claim adjusted for evidentiary shortcomings, to reflect historical results and to restrict the period of loss to 12 months.
TOTAL	446,580	267,948	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Athari United General Trading & Contracting Co.
UNCC claim number: 4003697
UNSEQ number: E-00533

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	10,375	8,047	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	9,898	5,790	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	99,381	29,561	Claim adjusted to reflect historical results and evidentiary shortcomings.
TOTAL	119,654	43,398	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Khamis Trading & Contracting Co. W.L.L.
UNCC claim number:	4003698
UNSEQ number:	E-00534

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	50,899	40,719	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for failure to repair/replace.
Loss of stock	291,022	261,886	Claim adjusted for obsolescence.
Loss of cash	2,116	2,116	Claim awarded in full.
Loss of vehicles	46,500	40,418	Claim adjusted to reflect M.V.V. Table values. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Loss of profits	24,478	0	Claim adjusted to reflect historical results.
TOTAL	415,015	345,139	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Asia Electro Mechanical Co. Ltd.
UNCC claim number:	4003699
UNSEQ number:	E-00535

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	9,582	7,771	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for depreciation, failure to repair/replace and evidentiary shortcomings.
Loss of stock	136,575	26,201	Original other loss not categorised claim reclassified to loss of stock. Claim adjusted for stock build-up and evidentiary shortcomings.
Loss of cash	54	0	Insufficient evidence to substantiate claim.
Loss of vehicles	5,484	4,311	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	260,890	94,537	Original business transaction claim reclassified to loss of profits. Claim adjusted to reflect historical results and for windfall profits.
Bad debts	77,122	0	Insufficient evidence to substantiate claim.
Restart costs	2,870	0	Claim reclassified to restart costs and loss of tangible property. Insufficient evidence to substantiate claim per paragraph 71 of the report.
TOTAL	492,577	132,820	

Claim preparation costs	3,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	36,944	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Carton Industries Company - K.S.C. (Closed)
UNCC claim number: 4003700
UNSEQ number: E-00536

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	53,700	30,990	Claim adjusted for depreciation and maintenance.
Loss of stock	659,059	373,567	Original tangible property claim reclassified to stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	1,286,499	872,120	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
TOTAL	1,999,258	1,276,677	

Claim preparation costs	1,640	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Ismail Dashti Sons & Partners G. Trading & Contracting Co.
UNCC claim number: 4003701
UNSEQ number: E-00537

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	68,967	42,267	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
TOTAL	68,967	42,267	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Ahmadiah Real Estate Company S.A.K.
UNCC claim number:	4003702
UNSEQ number:	E-00538

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	88,509	65,148	Original loss of income-producing property claim reclassified to loss of profits. Claim adjusted to reflect historical results and to restrict the period of loss to 10 months.
TOTAL	88,509	65,148	
Interest	11,324	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Tariq Al-Ghanim Co. Ltd.
UNCC claim number:	4003703
UNSEQ number:	E-00539

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	110,884	59,190	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	97,229	15,937	Claim adjusted for stock build-up and evidentiary shortcomings.
Loss of vehicles	129,582	88,534	Claim adjusted to reflect M.V.V. Table values. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Payment or relief to others	105,909	105,194	Claim reclassified to payment or relief to others and bad debts. Claim for meals awarded in full per paragraph 54 of the report. Insufficient evidence to substantiate claim for airline ticket.
Loss of profits	486,821	241,980	Original restart costs reclassified to loss of profits. Claim adjusted to reflect historical results and for windfall profits.
Bad debts	52,566	15,495	Original contracts claim reclassified to bad debts. Claim adjusted for evidentiary shortcomings. Court settlement claim adjusted for evidentiary shortcomings.
TOTAL	982,991	526,330	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	101,832	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Bouftain Haloul Trading Co.
UNCC claim number: 4003704
UNSEQ number: E-00540

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	39,357	21,328	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up and obsolescence.
Loss of profits	8,348	3,774	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	47,705	25,102	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Bohsali Patisserie Co. W.L.L.
UNCC claim number: 4003705
UNSEQ number: E-00541

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	22,780	20,016	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	39,582	19,927	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	825	825	Claim awarded in full.
Loss of profits	63,381	20,493	Claim adjusted to reflect historical results.
TOTAL	126,568	61,261	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Gulf Newspaper Distribution Company (S.A.K.) (Closed)
UNCC claim number: 4003609
UNSEQ number: E-00542

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	13,143	10,499	Claim adjusted for depreciation.
Loss of profits	27,478	1,969	Claim adjusted to reflect historical results.
TOTAL	40,621	12,468	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mohamad & Haedrous Co. for Ready-made Clothes W.L.L.
UNCC claim number: 4003610
UNSEQ number: E-00543

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	750	750	Claim reclassified to loss of tangible property and stock. Claim awarded in full.
Loss of stock	456,940	310,719	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	76,615	58,068	Claim adjusted to reflect historical results.
TOTAL	534,305	369,537	

Claim preparation costs	900	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Owais Al Ajmi Grocery Company
UNCC claim number:	4003611
UNSEQ number:	E-00544

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	3,333	2,833	Claim reclassified to loss of tangible property and stock. Claim adjusted for evidentiary shortcomings.
Loss of stock	6,114	0	Insufficient evidence to substantiate claim.
Loss of profits	5,715	0	Insufficient evidence to substantiate claim per paragraph 60 of the report.
TOTAL	15,162	2,833	

Claim preparation costs	700	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Baqar Hussain & Hussain Kharasani for Foodstuff Co. W.L.L.
UNCC claim number: 4003612
UNSEQ number: E-00545

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	631,714	405,451	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up and obsolescence.
Loss of profits	116,556	83,333	Claim adjusted to reflect historical results.
TOTAL	748,270	488,784	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims Reported by claimant name and category of loss

Claimant's name:	Mohamed Saleh Behbehani & Company W.L.L.
UNCC claim number:	4003614
UNSEQ number:	E-00547

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	3,876	2,498	Claim reclassified to loss of tangible property, cash and vehicles. Claim adjusted for depreciation.
Loss of cash	1,420	0	Insufficient evidence to substantiate claim.
Loss of vehicles	6,135	4,850	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	521,100	102,510	Claim adjusted to reflect historical results.
Bad debts	128,173	0	Insufficient evidence to substantiate claim.
TOTAL	660,704	109,858	

Claim preparation costs	1,400	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	52,026	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	National Insurance Services Group K.S.C. (Closed)
UNCC claim number:	4003615
UNSEQ number:	E-00548

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	49,121	0	Payment or relief to others claim reclassified to loss of profits. Claim adjusted to reflect historical results.
TOTAL	49,121	0	

Claim preparation costs	1,250	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Faiha Co-operative
UNCC claim number:	4003616
UNSEQ number:	E-00549

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	1,468	1,465	Claim reclassified to loss of tangible property and stock. Claim adjusted for mathematical error.
Loss of stock	282,649	57,060	Claim adjusted for obsolescence and evidentiary shortcomings.
Payment or relief to others	182,604	0	Insufficient causation to substantiate claim per paragraph 53 of the report.
Loss of profits	389,077	74,727	Claim adjusted to reflect historical results, for windfall profits and evidentiary shortcomings.
Other loss not categorised	268,973	121,780	Claim adjusted for evidentiary shortcomings.
TOTAL	1,124,771	255,032	

Claim preparation costs	950	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kifan Co-operative Society
UNCC claim number: 4003617
UNSEQ number: E-00550

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	32,282	22,594	Claim adjusted for evidentiary shortcomings and maintenance.
Loss of tangible property	18,884	18,884	Claim reclassified to loss of tangible property, stock and cash. Claim awarded in full.
Loss of stock	372,522	205,818	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	18,659	0	Insufficient evidence to substantiate claim.
Payment or relief to others	66,952	0	Insufficient causation to substantiate claim per paragraph 53 of the report.
Loss of profits	331,636	184,842	Claim adjusted to reflect historical results.
Other loss not categorised	507,888	358,030	Kuwaiti dinar claim awarded in full. Claim for Iraqi dinar adjusted to reflect recognised exchange rate and for evidentiary shortcomings.
TOTAL	1,348,823	790,168	

Claim preparation costs	900	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Wael Al-Nusif & Partners Trading Company W.L.L.
UNCC claim number:	4003618
UNSEQ number:	E-00551

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	102,626	97,026	Claim adjusted for maintenance.
Loss of tangible property	96,901	85,472	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation, failure to repair/replace and evidentiary shortcomings.
Loss of stock	163,650	93,612	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	977,111	871,427	Claim adjusted to reflect M.V.V. Table values and the amount supported by the evidence. For non-M.V.V. values, claim adjusted per paragraph 47 of the report. Claim further adjusted for depreciation, maintenance and evidentiary shortcomings.
Loss of profits	82,431	37,094	Claim adjusted for evidentiary shortcomings and windfall profits.
Restart costs	351,429	176,406	Claim adjusted for evidentiary shortcomings.
TOTAL	1,774,148	1,361,037	

Claim preparation costs	12,545	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Interest	242,807	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Batool Fashions Co.
UNCC claim number:	4003619
UNSEQ number:	E-00552

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	6,764	6,764	Claim reclassified to loss of tangible property, stock and cash. Claim awarded in full.
Loss of stock	124,587	105,974	Stock claim adjusted for evidentiary shortcomings and obsolescence. Goods in transit claim adjusted for obsolescence.
Loss of cash	4,443	0	Insufficient evidence to substantiate claim.
Loss of profits	45,062	23,814	Claim adjusted to restrict the period of loss to 7 months and to reflect historical results.
Bad debts	56,770	0	Insufficient evidence to substantiate claim.
TOTAL	237,626	136,552	

Claim preparation costs	1,150	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	23,564	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Gulf House for General Trading & Contracting Company
UNCC claim number: 4003620
UNSEQ number: E-00553

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	24,833	19,818	Claim reclassified to loss of tangible property and vehicles. Claim adjusted for maintenance, depreciation and failure to repair/replace.
Loss of vehicles	1,100	599	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	56,640	42,480	Claim adjusted for windfall profits.
TOTAL	82,573	62,897	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Abdelrahman Mulla Hussain Sons & Partners Co.
UNCC claim number: 4003621
UNSEQ number: E-00554

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	43,075	32,306	Claim adjusted for evidentiary shortcomings.
Other loss not categorised	27,200	0	Insufficient evidence to substantiate claim per paragraph 80 of the report.
TOTAL	70,275	32,306	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Modern Real Estate Company
UNCC claim number: 4003622
UNSEQ number: E-00555

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	204,950	163,960	Claim adjusted for maintenance.
TOTAL	204,950	163,960	
Claim preparation costs	1,150	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Maraheb Dept. Store
UNCC claim number: 4003676
UNSEQ number: E-00556

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	35,922	24,380	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation and for failure to repair/replace.
Loss of stock	195,547	0	Insufficient evidence to substantiate claim.
Loss of profits	80,461	42,597	Claim adjusted to restrict the period of loss to 12 months and for evidentiary shortcomings.
TOTAL	311,930	66,977	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Anwar Readymade Garments Exhibition Co. W.L.L.
UNCC claim number: 4003677
UNSEQ number: E-00557

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	481,051	321,023	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up, obsolescence and to reflect recognised exchange rates.
Loss of profits	4,440	3,330	Claim adjusted for windfall profits.
TOTAL	485,491	324,353	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Mohamed Abdulla Mohamed Al-Bahar & Partners Real Estate Co. W.L.L.
UNCC claim number: 4003678
UNSEQ number: E-00558

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	198,247	161,067	Loss of income-producing property claim reclassified to loss of profits. Claim adjusted to reflect historical results.
TOTAL	198,247	161,067	

Interest	29,457	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Hassan Al-Wazzan and Fahmi Al-Faisel for Car Spare Parts
UNCC claim number: 4003679
UNSEQ number: E-00559

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	1	1	Claim reclassified to loss of tangible property and stock. Claim awarded in full.
Loss of stock	125,642	51,695	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	23,300	17,475	Claim adjusted for evidentiary shortcomings.
TOTAL	148,943	69,171	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mousa & Abdulwahab Al-Naki Co.
UNCC claim number: 4003680
UNSEQ number: E-00560

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	304,367	254,147	Original claim for tangible property reclassified to loss of stock. Claim adjusted for obsolescence.
Loss of profits	140,244	140,244	Claim awarded in full.
TOTAL	444,611	394,391	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Austrian House for Lighting & Electrical Co. Kuwaiti Company W.L.L.
UNCC claim number:	4003681
UNSEQ number:	E-00561

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	8,516	6,690	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	31,740	23,805	Claim adjusted for evidentiary shortcomings.
Other loss not categorised	450	0	Insufficient evidence to substantiate claim per paragraph 77 of the report.
TOTAL	40,706	30,495	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al Panda Restaurant Company
UNCC claim number: 4003682
UNSEQ number: E-00563

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	21,743	20,526	Claim reclassified to loss of tangible property and vehicles. Original restart of business claim reclassified to loss of tangible property. Claim adjusted for maintenance.
Loss of vehicles	4,500	3,073	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	40,020	21,186	Claim adjusted for evidentiary shortcomings and to restrict the period of loss to 12 months.
TOTAL	66,263	44,785	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Mohamed Abdulla Alrabiah & Partners Company
UNCC claim number: 4003683
UNSEQ number: E-00564

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	415,137	332,110	Claim adjusted for maintenance.
Loss of cash	9,356	0	Original tangible property claim reclassified to loss of cash. Insufficient evidence to substantiate claim.
Loss of profits	1,830,186	1,291,896	Claim adjusted to restrict the period of loss to 12 months.
TOTAL	2,254,679	1,624,006	

Interest	157,827	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Khalid Ali Al Khorafi & Bros. Co.
UNCC claim number: 4003684
UNSEQ number: E-00565

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	62,334	0	Claim reclassified to loss of contract, profits and bad debts. Insufficient evidence to substantiate claim per paragraph 26 of the report.
Loss of real property	18,977	15,182	Claim adjusted for maintenance.
Loss of tangible property	81,095	79,303	Claim reclassified to loss of tangible property, stock, cash and vehicles. Claim adjusted for depreciation.
Loss of stock	731,295	253,278	Claim adjusted for stock build-up and evidentiary shortcomings.
Loss of cash	861	0	Insufficient evidence to substantiate claim.
Loss of vehicles	5,127	4,266	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	326,061	51,742	Claim adjusted to reflect historical results, to restrict the period of loss to 9.5 months and for windfall profits.
Bad debts	245,698	0	Insufficient evidence to substantiate claim.
TOTAL	1,471,448	403,771	

Claim preparation costs	10,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	28,531	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Khulaifi and Partners Company for Sanitary Ware and Building Material
UNCC claim number: 4003685
UNSEQ number: E-00566

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	1,330,760	1,033,472	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up and obsolescence.
Loss of profits	194,136	153,380	Original interest and other loss not categorised claim reclassified to loss of profits. Claim adjusted to reflect historical results.
TOTAL	1,524,896	1,186,852	

Claim preparation costs	6,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Central Circle Co.
UNCC claim number: 4003686
UNSEQ number: E-00567

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	109,688	36,451	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	86,488	64,866	Claim adjusted for evidentiary shortcomings.
Bad debts	41,384	41,242	Claim adjusted to reflect recognised exchange rate.
TOTAL	237,560	142,559	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait National Cinema Company
UNCC claim number: 4003706
UNSEQ number: E-00569

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	871,356	392,955	Claim reclassified to loss of real property and claim preparation. Claim adjusted for evidentiary shortcomings, depreciation, maintenance and failure to repair/replace.
Loss of tangible property	283,075	148,366	Claim reclassified to loss of tangible property and stock. Claim adjusted for failure to repair/replace, depreciation and evidentiary shortcomings.
Loss of stock	650,330	514,622	Claim adjusted for stock build-up and obsolescence.
Loss of profits	300,656	169,010	Original contracts claim reclassified to loss of profits. Claim adjusted to reflect historical results.
Bad debts	64,214	0	Insufficient evidence to substantiate claim.
TOTAL	2,169,631	1,224,953	

Claim preparation costs	16,276	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	155,492	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Seven Up Bottling Co.
UNCC claim number:	4003707
UNSEQ number:	E-00570

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	311,581	272,100	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for evidentiary shortcomings and depreciation.
Loss of stock	940,747	491,316	Claim reclassified to loss of stock and profits. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	4,590	4,590	Claim awarded in full.
Loss of profits	520,365	146,730	Claim adjusted to reflect historical results.
Bad debts	435,899	0	Insufficient evidence to substantiate claim.
Restart costs	3,499	1,802	Claim adjusted for evidentiary shortcomings.
TOTAL	2,216,681	916,538	

Claim preparation costs	3,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	263,571	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Arabi Company W.L.L.
UNCC claim number: 4003708
UNSEQ number: E-00571

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	69,175	69,171	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for evidentiary shortcomings.
Loss of stock	894,500	791,137	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	48,550	46,400	Claim adjusted to reflect M.V.V. Table values and evidentiary shortcomings.
Loss of profits	57,830	11,865	Original contracts claim reclassified to loss of profits. Claim adjusted to reflect historical results and for windfall profits.
TOTAL	1,070,055	918,573	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Otis Elevators Company/Kuwait KSC (Closed)
UNCC claim number: 4003709
UNSEQ number: E-00572

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	209,450	0	Insufficient evidence to substantiate claim.
Loss of tangible property	39,362	30,422	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	23,217	19,734	Claim adjusted for evidentiary shortcomings.
Loss of vehicles	56,228	33,843	Claim adjusted to reflect M.V.V. Table values and for evidentiary shortcomings. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Payment or relief to others	54,013	0	Insufficient evidence to substantiate claim per paragraph 52 of the report.
Loss of profits	77,720	31,329	Claim reclassified to payment or relief to others and loss of profits. Original claim for other losses not categorised reclassified to loss of profits. Claim adjusted to reflect historical results and to restrict the period of loss to 9 months.
Bad debts	150,643	0	Insufficient evidence to substantiate claim.
Restart costs	15,576	10,634	Claim adjusted for evidentiary shortcomings.
TOTAL	626,209	125,962	

Claim preparation costs	6,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Judaimi for Crushing Shingles and Trading Co. W.L.L.
UNCC claim number:	4003710
UNSEQ number:	E-00574

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	20,667	19,431	Claim adjusted to reflect historical results.
TOTAL	20,667	19,431	

Claim preparation costs	1,110	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al Bait Al Mamor Trading Co.
UNCC claim number: 4003711
UNSEQ number: E-00575

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	73,925	54,732	Claim reclassified to loss of real property and tangible property. Claim adjusted for evidentiary shortcomings and failure to repair/replace.
Loss of tangible property	203,872	98,587	Loss of income-producing property claim reclassified to loss of tangible property. Livestock claim adjusted for evidentiary shortcomings and failure to repair/replace. Furniture and equipment claim adjusted for depreciation, failure to repair/replace and evidentiary shortcomings.
Loss of stock	338,702	212,982	Original tangible property claim reclassified to loss of stock. Stock claim adjusted for evidentiary shortcomings, stock build-up and obsolescence. Insufficient evidence to substantiate goods in transit claim.
TOTAL	**616,499**	**366,301**	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Muneera Restaurant Co.
UNCC claim number:	4003712
UNSEQ number:	E-00576

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	35,490	32,621	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	2,460	1,599	Claim adjusted for obsolescence.
Loss of vehicles	3,574	0	Insufficient evidence to substantiate claim.
Loss of profits	32,483	23,166	Claim adjusted to reflect historical results.
TOTAL	74,007	57,386	

Claim preparation costs	325	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Sultan Ben Eisa Sons Company
UNCC claim number: 4003713
UNSEQ number: E-00577

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	800,735	544,500	Claim adjusted for evidentiary shortcomings and maintenance.
Loss of stock	675,403	352,723	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up, obsolescence and overstocking.
TOTAL	1,476,138	897,223	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	267,549	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Jassim Al Asfoor Trading Company
UNCC claim number: 4003714
UNSEQ number: E-00578

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	234,205	207,527	Original tangible property claim reclassified to loss of stock. Stock claim adjusted for obsolescence and evidentiary shortcomings. Insufficient evidence to substantiate goods-in-transit claim.
Loss of profits	24,931	24,931	Claim awarded in full.
TOTAL	259,136	232,458	

Claim preparation costs	1,235	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Aluminium and Brass Inaust Company
UNCC claim number:	4003715
UNSEQ number:	E-00579

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	1,405,368	679,196	Original income-producing property claim reclassified to loss of stock and cash. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of cash	17,575	0	Insufficient evidence to substantiate claim.
Loss of profits	150,670	146,804	Claim adjusted to reflect historical results.
TOTAL	1,573,613	826,000	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	191,784	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Fairs Company K.S.C. (Closed)
UNCC claim number: 4003716
UNSEQ number: E-00580

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	3,892	0	Claim reclassified to loss of contract and profits. Insufficient evidence to substantiate claim.
Loss of tangible property	423,438	169,535	Claim reclassified to loss of tangible property, stock and cash. Claim adjusted for evidentiary shortcomings, failure to repair/replace and depreciation.
Loss of stock	3,365	0	Insufficient evidence to substantiate claim.
Loss of cash	854	0	Insufficient evidence to substantiate claim.
Payment or relief to others	5,176	0	Insufficient evidence to substantiate claim per paragraph 51 of the report.
Loss of profits	42,391	27,210	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	479,116	196,745	

Claim preparation costs	1,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	58,665	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Tamathal Real Estate Trading Company
UNCC claim number: 4003717
UNSEQ number: E-00581

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	19,386	6,230	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	19,386	6,230	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Kuwait Pritchard for Cleaning and Maintenance
UNCC claim number: 4003718
UNSEQ number: E-00582

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	133,987	97,491	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	91,169	70,195	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	95,267	95,063	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	151,728	24,826	Claim adjusted to reflect historical results, to restrict the period of loss to 10 months and for windfall profits.
TOTAL	472,151	287,575	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Hawazen for General Trading and Contracting
UNCC claim number: 4003719
UNSEQ number: E-00583

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	43,165	31,247	Original tangible property claim reclassifed to loss of stock. Claim adjusted for obsolescence and stock build-up.
Loss of profits	14,911	816	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
TOTAL	58,076	32,063	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Libirity Trading Co.
UNCC claim number:	4003720
UNSEQ number:	E-00584

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	19,794	14,710	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	86,472	18,982	Claim adjusted for obsolescence and stock build-up.
Loss of profits	2,974	1,694	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	109,240	35,386	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Nakhlit Al Khaleeg Co. for Electric/Hussain Hamzh Abbas Al Koot & Mohamed Salah
W.L.L.
UNCC claim number: 4003721
UNSEQ number: E-00585

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	5,327	5,282	Claim adjusted for depreciation.
TOTAL	5,327	5,282	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Fawaz Refrigeration & Airconditioning Co.
UNCC claim number:	4003722
UNSEQ number:	E-00586

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	67,175	10,561	Claim adjusted for evidentiary shortcomings and to reflect recognised exchange rate.
Loss of tangible property	92,242	88,341	Claim reclassified to loss of contract, tangible property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	307,023	126,381	Stock claim adjusted for evidentiary shortcomings, stock build-up and obsolescence. Goods in transit claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	32,825	30,074	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	24,884	0	Original other loss not categorised claim reclassified to loss of profits. Claim adjusted to reflect historical values per paragraph 61 of the report.
Bad debts	39,308	11,902	Claim adjusted for evidentiary shortcomings.
TOTAL	563,457	267,259	

Claim preparation costs	17,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	95,385	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Intisar Trading Co.
UNCC claim number: 4003723
UNSEQ number: E-00587

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	68,310	54,648	Claim adjusted for evidentiary shortcomings.
Loss of real property	2,952	2,362	Claim adjusted for maintenance.
Loss of tangible property	3,422	3,296	Claim reclassified to loss of tangible property, contract, stock and vehicles. Claim adjusted for depreciation and evidentiary shortcomings.
Loss of stock	621	288	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of vehicles	2,000	826	Claim adjusted to reflect the M.V.V. Table values.
Loss of profits	57,800	20,500	Claim adjusted to reflect historical results.
Restart costs	418	0	Claim reclassified to restart costs and loss of real property. Insufficient evidence to substantiate claim per paragraph 71 of the report.
TOTAL	135,523	81,920	

Claim preparation costs	2,124	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Metal Container Company
UNCC claim number:	4003724
UNSEQ number:	E-00588

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	173,894	138,000	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	532,544	344,111	Stock claim adjusted for obsolescence and stock build-up. Goods-in-transit claim adjusted for evidentiary shortcomings and obsolescence.
Loss of vehicles	6,277	1,933	Claim adjusted per the M.V.V. Table values and for evidentiary shortcomings. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Loss of profits	265,020	102,869	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
TOTAL	977,735	586,913	

Claim preparation costs	3,750	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: National Automotive Manufacturing Trading Co. (K.S.C.)
UNCC claim number: 4003725
UNSEQ number: E-00590

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	331,649	145,588	Claim adjusted for evidentiary shortcomings, maintenance and failure to repair/replace.
Loss of tangible property	809,230	104,843	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for evidentiary shortcomings, depreciation and failure to repair/replace.
Loss of stock	531,085	229,583	Stock claim adjusted for evidentiary shortcomings. Goods in transit claim adjusted for obsolescence.
Loss of vehicles	1,605	1,570	Claim adjusted to reflect M.V.V. Table values. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Loss of profits	34,682	0	Original payment or relief to others claim reclassified to loss of profits. Claim adjusted to reflect historical results.
Bad debts	681,092	0	Insufficient evidence to substantiate claim.
Restart costs	1,105	1,105	Claim awarded in full.
TOTAL	2,390,448	482,689	

Claim preparation costs	9,086	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait International Investment Co.-KSC
UNCC claim number:	4003726
UNSEQ number:	E-00591

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	2,000	0	Insufficient evidence to substantiate claim per paragraph 29 of the report.
Loss of real property	7,906	6,325	Claim adjusted for maintenance.
Loss of profits	1,598,010	0	Original payment or relief to others and other loss not categorised claims reclassified to loss of profits. Claim adjusted to reflect historical results.
Restart costs	1,289	1,289	Claim awarded in full.
TOTAL	1,609,205	7,614	

Claim preparation costs	12,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al Qahtani General Trading and Contracting Co. W.L.L.
UNCC claim number: 4003727
UNSEQ number: E-00592

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	217,459	217,459	Claim awarded in full.
Loss of tangible property	130,089	116,474	Claim reclassified to loss of tangible property, vehicles and contract. Claim adjusted for failure to repair/replace, for depreciation and maintenance.
Loss of vehicles	22,634	20,774	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	15,540	14,245	Claim adjusted to restrict the loss period to 11 months.
TOTAL	385,722	368,952	

Claim preparation costs	2,404	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Johra Al-Hazim Electrical Contractors Co.
UNCC claim number: 4003728
UNSEQ number: E-00593

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	7,000	5,600	Claim reclassified to loss of tangible property and stock. Claim adjusted for evidentiary shortcomings.
Loss of stock	18,000	7,920	Claim adjusted for obsolescence and evidentiary shortcomings.
TOTAL	25,000	13,520	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Saeed & Samir Bookshop Company W.L.L.
UNCC claim number: 4003688
UNSEQ number: E-00595

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	83,192	62,350	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and stock build-up.
Loss of profits	14,266	13,884	Claim adjusted to reflect historical results.
TOTAL	97,458	76,234	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Electrical Wiring Accessories Co.
UNCC claim number: 4003689
UNSEQ number: E-00596

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	17,127	11,647	Claim adjusted for maintenance and evidentiary shortcomings.
Loss of tangible property	104,562	81,110	Claim reclassified to loss of tangible property, stock, and vehicles. Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	803,137	293,191	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of cash	2,000	0	Insufficient evidence to substantiate claim.
Loss of vehicles	9,587	8,585	Claim adjusted to reflect M.V.V. Table values. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Loss of profits	135,471	114,600	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
Bad debts	102,053	0	Insufficient evidence to substantiate claim.
Other loss not categorised	14,250	0	Claim reclassified to other loss not categorised and loss of profits. Insufficient causation to substantiate claim.
TOTAL	1,188,187	509,133	
Claim preparation costs	5,800	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Khadari and Al-Hassan Trading Company
UNCC claim number: 4003690
UNSEQ number: E-00597

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	47,018	17,657	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up and obsolescence.
Loss of profits	29,376	22,032	Claim adjusted for evidentiary shortcomings.
TOTAL	76,394	39,689	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	8,116	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II
Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Al Sirb Fashions Co. W.L.L.
UNCC claim number:	4003691
UNSEQ number:	E-00598

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	248,385	189,310	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	64,229	48,172	Claim adjusted for windfall profits.
TOTAL	312,614	237,482	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Abdul Mohsen Hassan Al-Wazan & Partners Co.
UNCC claim number: 4003692
UNSEQ number: E-00600

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	37,500	22,684	Claim adjusted for depreciation.
Loss of stock	143,697	0	Original tangible property claim reclassified to loss of stock. Insufficient evidence to substantiate claim.
Loss of profits	26,068	19,551	Claim adjusted for evidentiary shortcomings.
TOTAL	207,265	42,235	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Ali Ahmad Shawaf & Bros. Co.
UNCC claim number:	4003693
UNSEQ number:	E-00601

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	6,330	4,800	Claim reclassified to loss of tangible property, stock and cash. Claim adjusted for evidentiary shortcomings.
Loss of stock	313,061	169,386	Claim adjusted for obsolescence, stock build-up and evidentiary shortcomings.
Loss of cash	3,078	0	Insufficient evidence to substantiate claim.
Loss of profits	49,000	0	Original real property claim reclassified to loss of profits. Claim adjusted to reflect historical results.
Bad debts	1,864,256	11,489	Claim adjusted for evidentiary shortcomings.
TOTAL	2,235,725	185,675	

Claim preparation costs	1,708	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Nisf Limited Company/Hamoud Al-Nisf & Co. W.L.L.
UNCC claim number:	4003694
UNSEQ number:	E-00602

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	8,000	6,400	Original restart costs claim reclassified to loss of real property and tangible property. Real property claim adjusted for maintenance.
Loss of tangible property	2,232	1,905	Claim adjusted for maintenance and evidentiary shortcomings.
Loss of profits	424,699	0	Claim adjusted to reflect historical results.
TOTAL	434,931	8,305	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Kuwait Motoring Company
UNCC claim number: 4003749
UNSEQ number: E-00603

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	255,323	246,211	Claim adjusted for evidentiary shortcomings.
Loss of profits	724,148	0	Original payment or relief to others claim reclassified to loss of profits. Profits claim reclassified to loss of profits, real property and other. Claim adjusted to reflect historical results.
Other loss not categorised	2,823	0	Insufficient evidence and causation to substantiate claim per paragraph 78 of the report.
TOTAL	982,294	246,211	

Annex II
Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Momtaz Company for Textile/ Abdrahman Gomol Aldin Kashlan & his Partners W.L.L.
UNCC claim number: 4003750
UNSEQ number: E-00604

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	63,050	43,690	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	7,756	7,164	Claim adjusted to reflect historical results and to restrict period of loss to 12 months.
TOTAL	70,806	50,854	

Claim preparation costs	500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Ahlia International Trading and Import Company
UNCC claim number: 4003751
UNSEQ number: E-00605

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	4,529	3,623	Claim adjusted for maintenance.
Loss of stock	55,528	55,528	Original tangible property claim reclassified to loss of stock. Claim awarded in full.
TOTAL	60,057	59,151	

Claim preparation costs	4,974	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al Homaizi Building Material Co. Ltd.
UNCC claim number: 4003752
UNSEQ number: E-00606

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	732	732	Original tangible property claim reclassified to loss of tangible property, stock and vehicles. Claim awarded in full.
Loss of stock	1,155,000	951,507	Claim adjusted for stock build-up and obsolescence.
Loss of vehicles	5,444	5,329	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	419,123	304,054	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	1,580,299	1,261,622	

Claim preparation costs	4,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	House of Trade and Contracting Company W.L.L.
UNCC claim number:	4003753
UNSEQ number:	E-00607

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	541,690	313,394	Original other loss claim reclassified to loss of contract, profits and restart costs. Claim adjusted for evidentiary shortcomings.
Loss of real property	2,460	1,968	Claim adjusted for maintenance.
Loss of tangible property	122,640	98,520	Original tangible property claim reclassified to loss of tangible property, cash and vehicles. Claim adjusted for evidentiary shortcomings.
Loss of cash	20,082	0	Insufficient evidence to substantiate claim.
Loss of vehicles	370,269	295,877	Claim adjusted to reflect M.V.V. Table values. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Payment or relief to others	142,851	92,853	Claim adjusted for evidentiary shortcomings per paragraph 51 of the report.
Loss of profits	700,543	0	Original contract claim reclassified to loss of profits. Claim adjusted to reflect historical results.
Restart costs	71,800	29,530	Claim adjusted for evidentiary shortcomings.
TOTAL	1,972,335	832,142	

Claim preparation costs	7,150	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	231,560	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Adnan Al Mousa & Bitar Textile Co.
UNCC claim number: 4003754
UNSEQ number: E-00608

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	13,083	0	Original tangible property claim reclassified to loss of stock. Insufficient evidence to substantiate claim.
Loss of profits	9,960	4,482	Claim adjusted for windfall profits and evidentiary shortcomings.
TOTAL	23,043	4,482	

Claim preparation costs	3,565	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Kuwait Tannery Company
UNCC claim number:	4003729
UNSEQ number:	E-00609

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	257,189	209,264	Original tangible property claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation.
Loss of stock	873,277	553,366	Claim adjusted for stock build-up and obsolescence.
Loss of profits	560,900	560,900	Claim awarded in full.
TOTAL	1,691,366	1,323,530	

Claim preparation costs	1,750	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	That Al-Salasel Company
UNCC claim number:	4003730
UNSEQ number:	E-00610

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	567,131	439,234	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence, stock build-up and evidentiary shortcomings.
Loss of profits	86,208	58,267	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	653,339	497,501	

Claim preparation costs	1,250	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Abdullah Almishari and Abdulmohsin Alkhatrash Company W.L.L.
UNCC claim number: 4003731
UNSEQ number: E-00611

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	19,795	11,822	Claim adjusted for evidentiary shortcomings and maintenance.
Loss of tangible property	1,333	1,067	Claim adjusted for depreciation.
Loss of profits	499,367	341,490	Claim adjusted to reflect historical results.
TOTAL	520,495	354,379	

Claim preparation costs	3,725	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Ibrahim Moh'd Al Rukhis and Sons General Trading and Contracting Company
UNCC claim number:	4003732
UNSEQ number:	E-00612

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	18,183	18,183	Original restart costs claim reclassified to loss of tangible property. Claim awarded in full.
Loss of stock	2,011,540	1,606,199	Original tangible property claim reclassified to loss of stock and cash. Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of cash	2,570	0	Insufficient evidence to substantiate claim.
TOTAL	2,032,293	1,624,382	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	354,034	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Badr Alsultan & Brother Co.
UNCC claim number:	4003733
UNSEQ number:	E-00613

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	72,794	0	Original other loss not categorised claim reclassified to loss of contract. Insufficient evidence to substantiate claim per paragraph 28 of the report.
Loss of real property	65,881	44,955	Claim adjusted for evidentiary shortcomings and maintenance.
Loss of tangible property	8,550	8,550	Original tangible property claim reclassified as loss of tangible property, stock and other loss not categorised. Claim awarded in full.
Loss of stock	507,402	270,005	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of profits	153,527	124,784	Claim adjusted to reflect historical results.
TOTAL	808,154	448,294	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Nablus for Glass and General Trd. Co.
UNCC claim number:	4003734
UNSEQ number:	E-00614

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	466,010	301,202	Original tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for stock build-up and obsolescence.
Loss of vehicles	3,000	1,750	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	45,240	26,799	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	514,250	329,751	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	71,416	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Fresh Fruit Company
UNCC claim number:	4002401
UNSEQ number:	E-00615

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	311,507	131,612	Original tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for evidentiary shortcomings, overstocking and obsolescence.
Loss of vehicles	4,475	4,271	Claim adjusted to reflect M.V.V. Table values. For non-M.V.V. values, claim adjusted per paragraph 47 of the report.
Loss of profits	368,364	64,559	Claim adjusted to reflect historical results and for evidentiary shortcomings.
TOTAL	684,346	200,442	

Claim preparation costs	1,920	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Nahdah Store Co. W.L.L.
UNCC claim number: 4003735
UNSEQ number: E-00616

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	272,370	122,897	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up, overstocking, obsolescence and evidentiary shortcomings.
Loss of profits	47,855	26,555	Claim adjusted to reflect historical results and to restrict the period of loss to 12 months.
TOTAL	320,225	149,452	

Claim preparation costs	3,844	n.a.	Original other loss not categorised claim reclassified to claim preparation costs. Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Hazeem Readymade Garments Co.
UNCC claim number:	4003736
UNSEQ number:	E-00617

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	7,000	7,000	Claim reclassified to loss of tangible property and stock. Claim awarded in full.
Loss of stock	21,000	4,200	Claim adjusted for obsolescence and evidentiary shortcomings.
TOTAL	28,000	11,200	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Agricultural Development Company
UNCC claim number:	4003737
UNSEQ number:	E-00618

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	8,949	7,247	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for failure to repair/replace.
Loss of stock	228,281	168,735	Claim adjusted for stock build-up and obsolescence.
Loss of vehicles	9	0	Insufficient evidence to substantiate claim.
Loss of profits	20,780	15,255	Claim adjusted to reflect historical results and for windfall profits.
TOTAL	258,019	191,237	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Abdulaziz Abdulmohsen Al-Rashed Sons Company
UNCC claim number: 4003738
UNSEQ number: E-00619

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	80,278	64,222	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for evidentiary shortcomings.
Loss of stock	592,035	215,572	Claim adjusted for overstocking, evidentiary shortcomings, stock build-up and obsolescence.
Loss of vehicles	13,226	11,242	Claim adjusted for evidentiary shortcomings.
Loss of profits	91,000	0	Original payment or relief to others claim reclassified to loss of profits. Claim adjusted to reflect historical results.
Other loss not categorised	136	0	Insufficient evidence to substantiate claim.
TOTAL	776,675	291,036	

Claim preparation costs	2,500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Saud Al-Aujan and Brothers Co. Limited Liability Company
UNCC claim number: 4003739
UNSEQ number: E-00620

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	3,782	3,019	Claim reclassified to loss of real property and tangible property. Claim adjusted for maintenance and depreciation.
Loss of tangible property	6,105	5,234	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation and maintenance.
Loss of stock	193,877	116,879	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	46,271	26,799	Claim adjusted to M.V.V. Table values.
Loss of profits	98,800	63,328	Claim adjusted to reflect historical results and for windfall profits.
Other loss not categorised	63,616	41,767	Insufficient evidence to substantiate Iraqi Dinar claim. Claim for Kuwaiti Dinar awarded in full.
TOTAL	412,451	257,026	

Claim preparation costs	4,756	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Alkalegaia Transportation Company
UNCC claim number:	4003740
UNSEQ number:	E-00621

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	8,113	8,113	Claim reclassified to loss of tangible property and vehicles. Claim awarded in full.
Loss of vehicles	22,663	18,146	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	6,900	4,531	Claim adjusted to reflect historical results, to restrict the period of loss to 7 months and for evidentiary shcrtcomings.
TOTAL	37,676	30,790	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al Khaldiah Steel Contr. Co. W.L.L.
UNCC claim number:	4003741
UNSEQ number:	E-00622

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	17,265	9,377	Claim reclassified to loss of tangible property and vehicles. Claim adjusted for evidentiary shortcomings.
Loss of vehicles	4,675	2,550	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	27,852	23,716	Claim adjusted to reflect historical results.
TOTAL	49,792	35,643	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Raghad Jewellery Company
UNCC claim number:	4003742
UNSEQ number:	E-00623

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	39,537	26,250	Claim reclassified to loss of tangible property, stock and cash. Claim adjusted for depreciation.
Loss of stock	1,560,482	760,792	Claim adjusted for evidentiary shortcomings.
Loss of cash	36,287	0	Insufficient evidence to substantiate claim.
Loss of profits	792,969	400,923	Claim adjusted to reflect historical results, to restrict the period of loss to 12 months and for evidentiary shortcomings.
TOTAL	2,429,275	1,187,965	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Golden Scale Company
UNCC claim number: 4003743
UNSEQ number: E-00624

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	55,780	0	Original tangible property claim reclassified to loss of stock and vehicles. Insufficient evidence to substantiate claim.
Loss of vehicles	12,062	11,037	Claim adjusted to reflect M.V.V. Table values and for depreciation.
TOTAL	67,842	11,037	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Al Aqmar Alsinayyah Co.
UNCC claim number:	4003744
UNSEQ number:	E-00625

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	14,186	11,312	Claim reclassified to loss of tangible property , stock and vehicles. Claim adjusted for failure to repair/replace and depreciation.
Loss of stock	3,030	2,318	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	6,830	5,290	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	27,170	0	Insufficient evidence to substantiate claim per paragraph 60 of the report.
TOTAL	51,216	18,920	

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Kuwaitana Restaurants Company
UNCC claim number:	4003745
UNSEQ number:	E-00626

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	44,601	41,947	Claim reclassified to loss of tangible property and stock. Claim adjusted for depreciation.
Loss of stock	2,799	346	Claim adjusted for stock build-up and obsolescence.
TOTAL	47,400	42,293	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	5,036	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Zina Trading Centre Company W.L.L.
UNCC claim number: 4003746
UNSEQ number: E-00627

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	226,109	153,754	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	113,968	105,736	Claim adjusted to reflect historical results.
TOTAL	340,077	259,490	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Abdul Aziz & Ali Yousef Al-Muzaini Company W.L.L.
UNCC claim number: 4003747
UNSEQ number: E-00628

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Payment or relief to others	225,344	146,474	Claim reclassified to payment or relief to others and loss of profits. Claim adjusted for evidentiary shortcomings per paragraph 51 of the report.
Loss of profits	355,399	0	Claim adjusted to reflect historical results.
TOTAL	580,743	146,474	

Claim preparation costs	4,100	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	68,191	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	General Trading Company W.L.L.
UNCC claim number:	4003748
UNSEQ number:	E-00629

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	71,049	58,329	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for failure to repair/replace.
Loss of stock	194,815	134,750	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	33,239	29,692	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	136,920	136,920	Claim awarded in full.
TOTAL	436,023	359,691	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al Hazim Building & Roads Cleaning Company
UNCC claim number: 4003755
UNSEQ number: E-00630

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	25,200	19,532	Claim adjusted for depreciation and evidentiary shortcomings.
TOTAL	25,200	19,532	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Albelajat Co. for Cars Spare Parts
UNCC claim number: 4003756
UNSEQ number: E-00631

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	709	709	Claim reclassified to loss of tangible property, stock and cash. Claim awarded in full.
Loss of stock	19,209	12,991	Claim adjusted for stock build-up and obsolescence.
Loss of cash	726	0	Insufficient evidence to substantiate claim.
Loss of profits	11,169	10,460	Claim adjusted to reflect historical results.
TOTAL	31,813	24,160	

Claim preparation costs	2,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Kuwait International Automobile Club Co.
UNCC claim number: 4003757
UNSEQ number: E-00632

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of profits	192,371	159,291	Claim adjusted to reflect historical results.
TOTAL	192,371	159,291	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Musaed Abdullah Al-Sayer & Co.
UNCC claim number: 4003758
UNSEQ number: E-00633

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	86,107	10,178	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	37,206	4,270	Claim adjusted to reflect historical results and windfall profits.
TOTAL	123,313	14,448	

Claim preparation costs	3,200	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Al-Bader & Bahjat Hassan Co. Ltd.
UNCC claim number: 4003759
UNSEQ number: E-00634

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	342	267	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for depreciation.
Loss of stock	8,681	4,653	Claim adjusted for stock build-up and obsolescence.
Loss of vehicles	38	38	Claim awarded in full.
Payment or relief to others	5,409	1,869	Original restart costs claim reclassified to payment or relief to others. Original claim reclassified to payment or relief to others and loss of profits. Claim adjusted for evidentiary shortcomings.
Loss of profits	13,424	4,521	Claim adjusted to reflect historical results and for windfall profits.
Other loss not categorised	800	0	Insufficient evidence to substantiate claim.
TOTAL	28,694	11,348	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: European Exhibition for New Furniture Co.
UNCC claim number: 4003760
UNSEQ number: E-00635

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	533,426	212,819	Original tangible property claim reclassified to loss of stock. Claim adjusted for stock build-up, overstocking, obsolescence and evidentiary shortcomings.
TOTAL	533,426	212,819	

Claim preparation costs	750	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Al-Shayji Factory for Carpentry Company
UNCC claim number: 4003761
UNSEQ number: E-00637

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	24,081	19,265	Original real property claim reclassified to loss of tangible property. Original tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for maintenance.
Loss of stock	127,954	74,853	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of vehicles	1,750	1,750	Claim awarded in full.
TOTAL	153,785	95,868	

Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Mahboub Trading Company Ltd.
UNCC claim number: 4003762
UNSEQ number: E-00638

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	124,347	99,478	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence.
Loss of profits	14,658	14,658	Claim awarded in full.
TOTAL	139,005	114,136	

Claim preparation costs	500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Gulf Deep Foundation International Contracting Company
UNCC claim number: 4003763
UNSEQ number: E-00639

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	2,109,252	1,685,504	Claim adjusted for failure to repair/replace, depreciation and evidentiary shortcomings.
Loss of profits	81,288	8,330	Claim adjusted to reflect historical results.
TOTAL	2,190,540	1,693,834	
Claim preparation costs	3,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: All Season Readymade Garments Co.
UNCC claim number: 4003764
UNSEQ number: E-00640

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	14,325	9,741	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of profits	11,571	8,678	Claim adjusted for evidentiary shortcomings.
TOTAL	25,896	18,419	

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Al-Tair Taxi Co./Ali Hossain, Ali Kamal & His Son
UNCC claim number:	4003765
UNSEQ number:	E-00641

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	10,484	8,378	Claim reclassified to loss of tangible property and vehicles. Claim adjusted for depreciation, maintenance and failure to repair/replace.
Loss of vehicles	55,752	30,243	Claim adjusted to reflect M.V.V. Table values and evidentiary shortcomings.
TOTAL	66,236	38,621	

Claim preparation costs	6,307	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Jawharat Al Nuaman for Building Contracting Co.
UNCC claim number:	4003766
UNSEQ number:	E-00642

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	6,192	1,649	Claim adjusted for evidentiary shortcomings, depreciation and failure to repair/replace.
TOTAL	6,192	1,649	

Claim preparation costs	500	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Smile Electronics & Computer Systems Company
UNCC claim number: 4003767
UNSEQ number: E-00643

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	18,303	16,237	Claim reclassified to loss of tangible property, stock and cash. Claim adjusted for depreciation and failure to repair/replace.
Loss of stock	69,647	18,911	Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of cash	242	0	Insufficient evidence to substantiate claim.
TOTAL	88,192	35,148	

Claim preparation costs	1,015	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II
Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Constantine Halkias & Partner, Kuwait (W.L.L.)
UNCC claim number:	4003768
UNSEQ number:	E-00644

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	7,500	4,125	Claim reclassified to loss of tangible property, stock and cash. Claim adjusted for evidentiary shortcomings.
Loss of stock	497,181	331,346	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of cash	4,514	0	Insufficient evidence to substantiate claim.
Payment or relief to others	19,784	14,704	Claim reclassified to payment or relief to others and loss of profits. Claim adjusted for evidentiary shortcomings per paragraph 51 of the report.
Loss of profits	93,557	20,054	Claim adjusted to reflect historical results.
TOTAL	622,536	370,229	

Claim preparation costs	3,080	n.a.	Governing Council's determination pending. See paragraph 83 of the report.
Interest	86,592	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name: Kuwait Metal Collecting & Shredding Co.
UNCC claim number: 4003769
UNSEQ number: E-00645

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	16,772	13,418	Claim adjusted for maintenance.
Loss of tangible property	231,633	113,929	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted to reflect Net Book value, for maintenance, evidentiary shortcomings and failure to repair/replace.
Loss of stock	208,103	136,564	Claim adjusted for stock build-up and evidentiary shortcomings.
Loss of vehicles	13,430	13,430	Claim awarded in full.
Loss of profits	323,816	103,301	Claim adjusted to reflect historical results and for windfall profits.
Restart costs	1,528	1,528	Claim awarded in full.
Other loss not categorised	1,198	1,198	Claim awarded in full.
TOTAL	796,480	383,368	

Claim preparation costs	1,835	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Activity Company for Refreshment & Sweetmeats W.L.L.
UNCC claim number:	4003770
UNSEQ number:	E-00646

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	32,108	16,696	Original tangible property claim reclassified to loss of stock and vehicles. Claim adjusted for obsolescence and evidentiary shortcomings.
Loss of vehicles	2,035	2,035	Claim awarded in full.
Loss of profits	7,911	5,539	Claim adjusted to reflect historical results and evidentiary shortcomings.
TOTAL	42,054	24,270	

Claim preparation costs	1,000	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Alothman & Al-Ashy Trading Stores Company (W.L.L.)
UNCC claim number:	4003771
UNSEQ number:	E-00647

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of tangible property	462	462	Claim reclassified to loss of tangible property and stock. Claim awarded in full.
Loss of stock	99,426	53,904	Claim adjusted for stock build-up, obsolescence and evidentiary shortcomings.
Loss of cash	2,467	2,467	Claim awarded in full.
Loss of profits	7,798	3,509	Claim adjusted for windfall profits and evidentiary shortcomings.
TOTAL	110,153	60,342	

Claim preparation costs	900	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name:	Yousif Ibrahim Al-Ghanim & Partner - W.L.L.
UNCC claim number:	4003772
UNSEQ number:	E-00648

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of real property	14,090	7,045	Original restart costs reclassified to loss of real property. Claim adjusted for depreciation.
Loss of tangible property	808	808	Claim reclassified to loss of tangible property and stock. Claim awarded in full.
Loss of stock	1,389,866	438,758	Claim adjusted for evidentiary shortcomings, overstocking and obsolescence.
Loss of profits	486,781	339,785	Claim adjusted to reflect historical results and for windfall profits.
Other loss not categorised	40,003	0	Insufficient evidence and causation to substantiate claim.
TOTAL	1,931,548	786,396	

Claim preparation costs	3,284	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims
Reported by claimant name and category of loss

Claimant's name:	Alghanim & Alkhoury Construction Co. W.L.L.
UNCC claim number:	4003773
UNSEQ number:	E-00649

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of contract	23,632	16,000	Claim adjusted for evidentiary shortcomings.
Loss of tangible property	4,804	3,843	Claim reclassified to loss of tangible property, stock and vehicles. Claim adjusted for failure to repair/replace.
Loss of stock	118,064	78,508	Claim adjusted for evidentiary shortcomings and obsolescence.
Loss of vehicles	5,974	5,972	Claim adjusted to reflect M.V.V. Table values.
Loss of profits	15,160	0	Claim adjusted to reflect historical results.
Other loss not categorised	4,495	0	Claim reclassified to other loss not categorised, loss of contract and profits. Insufficient evidence to substantiate claim.
TOTAL	172,129	104,323	

Claim preparation costs	2,200	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Phoenicia Hotel Co. W.L.L.
UNCC claim number: 4003774
UNSEQ number: E-00650

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of cash	4,204	0	Original other loss not categorised claim reclassified to loss of cash and profits. Insufficient evidence to substantiate claim.
Loss of profits	26,436	19,827	Claim adjusted for windfall profits.
TOTAL	30,640	19,827	

Interest	3,935	n.a.	Governing Council's determination pending. See paragraph 82 of the report.

Annex II

Recommended awards for the seventh instalment of "E4" claims

Reported by claimant name and category of loss

Claimant's name: Marketing Projects for Trading and Contracting
UNCC claim number: 4003775
UNSEQ number: E-00651

Category of loss	Amount asserted (KD)	Amount recommended (KD)	Comments
Loss of stock	346,935	40,094	Original tangible property claim reclassified to loss of stock. Claim adjusted for obsolescence and evidentiary shortcomings.
TOTAL	346,935	40,094	

Claim preparation costs	3,286	n.a.	Governing Council's determination pending. See paragraph 83 of the report.

Annex XIX

Decision concerning the seventh instalment of E4 claims taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 38 of the Provisional Rules for Claims Procedure, the report and recommendations made by the panel of Commissioners concerning the seventh instalment of "E4" claims, covering 139 claims, 1/

1. Approves the recommendations made by the panel of Commissioners, and, accordingly,

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the claims covered in the report. The aggregate amount awarded, based on the recommendations contained in annex I to the report, is as follows:

Country	Number of claims recommended for payment	Number of claims not recommended for payment	Amount of compensation claimed (US$)	Amount of compensation recommended (US$)
Kuwait	138	1	274,124,813	135,879,257

3. Reaffirms that when funds become available payments shall be made in accordance with decision 73 (S/AC.26/Dec.73 (1999)),

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* Previously issued as document S/AC.26/Dec.94 (2000).

[1] The text of the report appears in document S/AC.26/2000/9 (annex XVIII above).

4. *Recalls* that when payments are made in accordance with decision 73 (S/AC.26/Dec.73 (1999)) and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), the Government of the State of Kuwait shall distribute amounts received to the designated claimants in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution,

5. *Requests* the Executive Secretary to provide a copy of the report to the Secretary-General, to the Government of the Republic of Iraq and to the Government of the State of Kuwait.

Annex XX

Ninth report of the Executive Secretary pursuant to article 41 of the Provisional Rules for Claims Procedure*

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* Previously issued as document S/AC.26/2000/10.

1. The present report identifies, pursuant to article 41 of the Provisional Rules For Claims Procedure (S/AC.26/1992/10) (the "Rules"), corrections to approved claim awards in categories "A" and "C".

I. CORRECTIONS TO CATEGORY "A" CLAIM AWARDS

2. Recommendations for corrections to category "A" claims include duplicate claims found as a result of applying the intra-category "A" matching programme to the sixth instalment of category "A" claims, duplicate and other miscellaneous corrections reported by Governments and changes in submitting entities requested by Governments and international organizations.

A. Category "A" duplicate claims

3. Since the last article 41 report, a total of 1,046 claims have been found to be duplicates of other claims also awarded compensation in category "A". Of this total 220 claims from eleven Governments were detected by the intra-category matching programme, a programme that allows the Commission to locate duplicate claims within category "A". This programme was previously applied to the first five instalments of category "A" claims, the results of which were reported to the Governing Council in the sixth article 41 report (S/AC.26/1999/12). For this ninth article 41 report the Commission has completed the final application of the matching programme for the sixth instalment of category "A" claims.

4. In addition to the claims detected by the intra-category "A" matching programme, six Governments have reported an additional 826 duplicate claims. The majority of these claims were located by the Governments of Bosnia and Herzegovina, India, the Philippines and Sri Lanka. No compensation should have been awarded for the duplicate claims and the total recommended awards should be revised accordingly. The following table identifies the Governments concerned, the instalments to be adjusted, the total number of claims to be corrected and the total amount by which the instalment will be reduced. [1]

Table 1. Category "A" duplicate claims included in the ninth article 41 report

Government or international organization	Instalment	Total number of duplicate claims	Amount of reduction (US$)
Bangladesh	Sixth	25	91,000.00
Bosnia and Herzegovina	Fifth	13	52,000.00
	Sixth	71	284,000.00

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[1] The amount refunded and recovered with respect to the 1,046 claims is currently US$2,448,483.

Government or international organization	Instalment	Total number of duplicate claims	Amount of reduction (US$)
Egypt	Fourth	1	2,500.00
	Sixth	6	15,000.00
India	First	1	2,500.00
	Fourth	5	15,500.00
	Fifth	47	183,000.00
	Sixth	26	91,000.00
Iran	Sixth	13	82,500.00
Jordan	Sixth	1	5,000.00
Morocco	Sixth	2	7,500.00
Pakistan	Sixth	6	21,000.00
Philippines	Fourth	53	204,500.00
	Fifth	1	4,000.00
	Sixth	25	95,500.00
Sri Lanka	First	8	21,500.00
	Second	25	100,000.00
	Third	16	64,000.00
	Fourth	487	1,931,500.00
	Fifth	143	572,000.00
	Sixth	60	240,000.00
Thailand	Fifth	10	40,000.00
Turkey	Sixth	1	2,500.00
Total		1,046	4,128,000.00

5. The adjusted claim awards have been included in the corrected total recommended awards in annex I, infra.

B. Other category "A" corrections

1. Non-duplicate claims

6. In the sixth instalment report on category "A" claims (S/AC.26/1996/3), three claims submitted by the Governments of Sudan, Bosnia and Herzegovina and Viet Nam were identified as duplicates of other claims previously awarded compensation. Additional information submitted by the respective Governments and authorities has now shown that the claims were in fact submitted by different individuals and that no duplication

exists in these situations. The total recommended awards for Sudan, Bosnia and Herzegovina and Viet Nam in the sixth instalment should be revised accordingly.

2. Decision 21 corrections

7. Decision 21 (S/AC.26/Dec.21 (1994)) of the Governing Council states that "any claimant who has selected a higher amount under category 'A' (US$4,000 or US$8,000) and has also filed a category 'B', 'C' or 'D' claim will be deemed to have selected the corresponding lower amount under category 'A'". Six claimants who filed for higher amounts in category "A" have been found to have filed claims in other categories. In accordance with decision 21, one claim for India in the fourth instalment, two claims for India in the fifth instalment, one claim for France in the first instalment and two claims for France in the fourth instalment have had their claim amounts adjusted downward.

3. Change of submitting entity

8. At the request and with the agreement of the Governments and international organizations concerned, one claim submitted by UNRWA Gaza and approved in the fifth instalment has been transferred to the Government of Canada, one claim submitted by the Government of India and approved in the fourth instalment has been transferred to the Government of Australia, one claim submitted by the Government of India and approved in the fourth instalment has been transferred to UNRWA Gaza, and one claim submitted by the Government of Sudan and approved in the fourth instalment has been transferred to UNHCR Germany.

4. Corrections to individual and family member claims

9. Four claims originally filed as family claims have been found to be claims submitted by individuals. Accordingly, two claims submitted by Kuwait in the third instalment and one claim submitted by France in the sixth instalment have had their claim amounts reduced from US$5,000 to US$2,500. One claim submitted by France in the fourth instalment has also been reduced from US$8,000 to US$4,000.

10. Three claims originally identified as individual claims have been shown to have been filed on behalf of families. Accordingly, two claims filed by India in the fourth and fifth instalments have been increased from the individual amount of US$2,500 to the family amount of US$5,000. One claim filed by the Federal Republic of Yugoslavia in the fifth instalment has also been increased from the individual amount of US$4,000 to US$8,000.

11. The adjusted claim awards for the first to sixth instalments, and the total revised recommended awards for category "A" claims, are located in tables 1-7 of annex I.

II. CORRECTIONS TO CATEGORY "C" CLAIM AWARDS

12. Corrections to category "C" claim awards include corrections relating to the reallocation with respect to departure and relocation costs ("C1-Money" losses) and "C4" personal property losses ("C4-CPHO" losses), the transfer of compensable loss elements from duplicate claims to valid claims, the correction of technical defects in claims for "C6" salary losses and other miscellaneous corrections.

13. Corrections to category "C" claim awards that are included in this report comprise those that were recommended following electronic and manual reviews of claims in order to verify that claims were processed in accordance with the Panel's directives, as stated in the seventh instalment report (S/AC.26/1999/11). The post-processing reviews concentrated principally on claims that contained (a) technical defects, (b) complex problematic issues related to non-fast-track losses, or (c) both. Thus, these reviews for the most part included claims reported in the sixth and seventh instalments. Where claims met the criteria for correction pursuant to article 41, corrections were recommended accordingly.

14. To a lesser extent, these corrections also resulted from manual reviews of claims following requests for review that were received from submitting entities on behalf of either individual claimants or groups of individual claimants. Finally, this report includes modifications to submitting entities for three claims, as requested and authorized by the parties involved, in order to facilitate payment to claimants who were awarded compensation.

1. Miscellaneous corrections to category "C" claim awards

15. For this report, more than 4,000 category "C" claims presenting specific problematic outcome profiles were reviewed in accordance with the Panel's decisions and recommendations in paragraphs 54-59, 160-166, 209, 213-214, 217-218, 276-279, and 347-350 of the seventh instalment report, approved by the Governing Council in decision 70 (S/AC.26/Dec.70 (1999)). Corrections were recommended for 1,727 claims, resulting in a net increase of US$5,278,142.15 to awards for claims submitted by individuals.

16. The most problematic outcomes in the claims reviewed resulted from the inadvertent overwriting of certain electronic files during the electronic processing cycle for the seventh instalment. In such cases, the corrections have reinstated the original electronic file results.

17. Other corrections resulted after electronic or manual reviews of the following groups of claims: (a) claims for which recategorization of loss elements was indicated; (b) claims for which duplicate recovery for the same losses had resulted; or (c) claims containing loss elements that required special scrutiny, such as claims submitted for repairs to boats.

18. Losses for repairs to boats were not considered as separate loss elements by the Panel in the seventh instalment because no reviews of sample claims had included such losses. As a result, claims containing losses for repairs to motorboats were compensated during the electronic processing cycle for the seventh instalment in accordance with the methodology for repairs to automobiles ("C4-MV-Repairs") without having first been reviewed as separate losses. Because the methodology for C4-MV-Repairs had not been developed specifically for application to boat repair losses, award amounts for those losses were generally reduced in a disproportionate manner.

19. This situation required manual review of approximately 75 claim files. The recommended outcomes were thereafter manually determined in accordance with the Panel's methodology for repairs to motor vehicles as described on pages 157-158 of the first instalment report (S/AC.26/1994/3), as approved in Governing Council decision 25 (S/AC.26/Dec.25 (1994)), and summarized in paragraph 209 of the seventh instalment report. Where appropriate, corrections were recommended.

Table 2. Miscellaneous article 41 corrections to category "C" claims

Country or international organization	Instalment	Total number of claims affected	Amount of net effect (US$)
Australia	Seventh	1	7,474.05
Bangladesh	Second	2	6,767.40
	Sixth	2	5,743.95
	Seventh	10	39,635.84
Belgium	Seventh	1	14,016.51
Canada	Sixth	1	10,389.61
China	Seventh	1	-
Egypt	Seventh	6	(4,373.67)
Finland	Seventh	1	34,419.15
India	Second	4	24,399.65
	Fourth	12	66,767.99
	Fifth	4	16,782.01
	Sixth	9	35,295.62
	Seventh	40	131,306.55

Country or international organization	Instalment	Total number of claims affected	Amount of net effect (US$)
Iran	Sixth	3	6,928.00
	Seventh	1	10,380.63
Italy	Fourth	1	4,032.00
	Sixth	1	22,422.15
Jordan	Second	29	235,505.21
	Fourth	11	100,029.04
	Fifth	38	292,065.86
	Sixth	55	473,343.13
	Seventh	78	422,332.53
Kuwait	Seventh	60	727,163.45
Lebanon	Second	2	16,089.96
	Fifth	1	41,522.49
	Sixth	2	45,944.49
Pakistan	Fourth	2	12,352.94
	Fifth	1	4,567.47
	Sixth	10	66,906.05
	Seventh	1,263	2,001,013.56
Philippines	Fifth	3	18,373.71
	Sixth	2	6,920.41
	Seventh	6	6,051.50
Poland	Sixth	1	25,266.44
	Seventh	1	15,332.18
Sri Lanka	Seventh	1	(3,633.22)
Sudan	Second	1	4,987.70
	Fifth	3	16,567.47
	Sixth	1	4,982.70
	Seventh	4	19,916.96
Syrian Arab Republic	Fifth	2	12,456.74
	Sixth	2	22,942.01
	Seventh	6	45,006.39

Country or international organization	Instalment	Total number of claims affected	Amount of net effect (US$)
Tunisia	Sixth	2	10,051.90
	Seventh	7	9,732.96
United Kingdom	Fourth	2	9,582.01
	Sixth	3	569.71
	Seventh	4	8,812.94
Yemen	Seventh	7	21,722.08
UNDP Jerusalem	Seventh	1	4,844.29
UNDP Kuwait	Second	2	20,242.22
	Sixth	14	126,194.43
Total		1,727	5,278,147.15

2. Change of submitting entity

20. At the request of the Government of Canada and with the agreement of UNRWA Gaza, two claims submitted by UNRWA Gaza, one approved in the sixth instalment and another approved in the seventh instalment, have been transferred to the Government of Canada.

21. At the request of the Government of Sudan and with the agreement of UNHCR Germany, one claim submitted by Sudan and approved in the sixth instalment, has been transferred to UNHCR Germany.

Table 3. Change of submitting entity for reporting and payment of claims

Country or international organization	Number of claims reported	Instalment	Previous total recommended award (US$)	Corrected number of claims	Corrected total recommended award (US$)
UNRWA Gaza	106	Sixth	2,623,050.49	105	2,574,693.22
Canada	241	Sixth	9,327,549.62	242	9,375,906.89
Sudan	2,061	Sixth	21,744,728.88	2,060	21,727,179.54
UNHCR Germany	-	Sixth	-	1	17,549.34
UNRWA Gaza	246	Seventh	6,796,892.02	245	6,767,301.03
Canada	258	Seventh	11,943,883.83	259	11,973,474.82

3. Correction of typographical errors in decision 85

22. As a result of typographical errors in the entry of amounts reported in the eighth article 41 report (S/AC.26/1999/19) and its related Governing Council decision 85 (S/AC.26/Dec.85 (1999)), the following corrections to the country award totals for one country in the fifth instalment and one country in the sixth instalment are noted below. The revised total award amounts provided in tables 7 and 8 of decision 85 for the fifth and sixth instalments were correctly stated.

Table 4. Correction of typographical errors for country award totals reported in S/AC.26/Dec.85 (1999)

Country or international organization	Instalment	Total reported in S/AC.26/Dec.85 (1999)	Corrected total (US$)
New Zealand	Fifth	64,413.86	46,992.01
Israel	Sixth	177,586.52	177,586.92

4. Changes to country award totals for the first instalment

23. Finally, the total award amounts per country or submitting entity that were approved for claims included in the first instalment in Governing Council decision 25 and subsequent corrections decisions vary in some cases by a few United States dollars from the sum of the totals of individual claims awarded. It has been verified that these variations are the result of different rounding conventions used during the processing and reporting of first instalment claims. While results have been internally reconciled on an individual claim award level, 2/ it is recommended that the minor changes to the amounts listed in column three of the table below be approved by the Governing Council.

2/ The total amounts for country awards in respect of claims approved in the first instalment of category "C" claims were rounded up manually. The results were then entered into an electronic spreadsheet. While the total amounts by country were reported as rounded to the nearest full United States dollar amount, and were based on the unrounded amounts of individual claim awards, confidential individual claim awards were reported to submitting Governments and international organizations as rounded to their nearest full United States dollar amount. When the total amount of individual claim awards in their nearest full United States dollar amount was calculated and compared with the amounts stated in the relevant Governing Council decisions, discrepancies were detected. The corrections proposed in table 5 are intended to address these reporting discrepancies now that all the information relating to losses in the first instalment has been put into the Commission's database.

Table 5. Report of variations caused by rounding conventions in first instalment country totals

Country or international organization	Country total reported in S/AC.26/Dec.25 (1994), as modified by subsequent corrections, where applicable	Country total (sum of individual claim totals)
Australia	1,919,706.00	1,919,705.00
Denmark	1,595,504.00	1,595,505.00
Kuwait	11,403,258.00	11,403,243.00
Nepal	31,963.00	31,962.00
Pakistan	17,768,886.00	17,768,858.00
Poland	852,211.00	852,210.00
United Kingdom	5,310,759.00	5,310,760.00
United States	10,522,623.00	10,522,630.00
Yugoslavia, Federal Republic of	616,860.00	616,861.00

Annex I

CORRECTED CATEGORY "A" CLAIM AWARDS

1. Based on the corrections reported in paragraphs 2-11, supra, the category "A" claims aggregate corrected amounts per country, by claim instalment, are as follows:

Table 1. First instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
France	989,500.00	986,500.00
India	25,043,000.00	25,040,500.00
Sri Lanka	25,114,500.00	25,093,000.00

Table 2. Second instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Sri Lanka	77,298,500.00	77,198,500.00

Table 3. Third instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Kuwait	104,620,000.00	104,615,000.00
Sri Lanka	52,421,000.00	52,357,000.00

Table 4. Fourth instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Australia	85,500.00	93,500.00
Egypt	207,343,500.00	207,341,000.00
France	138,000.00	128,000.00
India	146,328,000.00	146,300,000.00
Philippines	30,465,000.00	30,260,500.00
Sri Lanka	71,728,000.00	69,796,500.00
Sudan	10,223,500.00	10,221,000.00

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
UNHCR Germany	0.00	2,500.00
UNRWA Gaza	687,000.00	691,000.00

Table 5. Fifth instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Bosnia and Herzegovina	3,528,000.00	3,476,000.00
Canada	409,000.00	414,000.00
India	147,801,500.00	147,616,500.00
Philippines	31,112,000.00	31,108,000.00
Sri Lanka	72,105,000.00	71,533,000.00
Thailand	10,592,000.00	10,552,000.00
Yugoslavia, Federal Republic of	3,790,500.00	3,794,500.00
UNWRA Gaza	736,000.00	731,000.00

Table 6. Sixth instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Bangladesh	65,943,500.00	65,852,500.00
Bosnia and Herzegovina	2,060,000.00	1,780,000.00
Egypt	18,651,000.00	18,636,000.00
France	23,000.00	20,500.00
India	17,418,500.00	17,327,500.00
Iran	5,565,000.00	5,482,500.00
Jordan	17,527,500.00	17,522,500.00
Morocco	2,561,500.00	2,554,000.00
Pakistan	46,279,000.00	46,258,000.00
Philippines	60,810,000.00	60,714,500.00
Sri Lanka	36,643,000.00	36,403,000.00
Sudan	509,500.00	512,000.00
Turkey	1,552,500.00	1,550,000.00

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Viet Nam	3,492,000.00	3,496,000.00

2. Based on the above corrections, the revised category "A" claim total recommended awards by instalment are as follows:

Table 7. Revised total recommended awards for category "A" claims

Instalment	Previous total recommended award (US$) a/	Corrected total recommended award (US$)
First	189,633,000.00	189,606,000.00
Second	641,352,500.00	641,252,500.00
Third	531,571,000.00	531,502,000.00
Fourth	734,839,000.00	732,674,500.00
Fifth	785,391,000.00	784,542,000.00
Sixth	317,188,000.00	316,261,000.00

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a/ The previous total recommended award amounts in this column include the initial awards approved by the Governing Council in its decisions 22, 28, 29, 31, 33, 38 and 67 (S/AC.26/Dec.22 (1994), S/AC.26/Dec.28 (1995), S/AC.26/Dec.29 (1995), S/AC.26/Dec.31 (1995), S/AC.26/Dec.33 (1995), S/AC.26/Dec.38 (1996) and S/AC.26/Dec.67 (1999)) and subsequent corrections approved by the Governing Council in its decisions 42, 44, 51, 54, 57, 71, 79 and 85 (S/AC.26/Dec.42 (1997), S/AC.26/Dec.44 (1997), S/AC.26/Dec.51 (1998), S/AC.26/Dec.54 (1998), S/AC.26/Dec.57 (1998), S/AC.26/Dec.71 (1999), (S/AC.26/Dec.79 (1999) and (S/AC.26/Dec.85 (1999)).

Annex II

CORRECTED CATEGORY "C" CLAIM AWARDS

1. Based on the corrections reported in paragraphs 12-23, *supra*, the category "C" claims aggregate corrected amounts per country, by claim instalment, are as follows:

Table 1. First instalment category "C" claims corrections

Country or international organization	Country total reported in S/AC.26/Dec.25 (1994), as modified by subsequent corrections, where applicable	Country total (sum of individual claim totals)
Australia	1,919,706.00	1,919,705.00
Denmark	1,595,504.00	1,595,505.00
Kuwait	11,403,258.00	11,403,243.00
Nepal	31,963.00	31,962.00
Pakistan	17,768,886.00	17,768,858.00
Poland	852,211.00	852,210.00
United Kingdom	5,310,759.00	5,310,760.00
United States	10,522,623.00	10,522,630.00
Yugoslavia, Federal Republic of	616,860.00	616,861.00

Table 2. Second instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Bangladesh	12,161,510.90	12,168,258.30
India	70,365,172.62	70,389,572.27
Jordan	38,667,291.51	38,902,796.72
Lebanon	26,532,492.94	26,548,582.90
Sudan	5,217,538.58	5,222,521.28
UNDP Kuwait	5,605,638.03	5,625,880.25

Table 3. Fourth instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
India	45,880,225.91	45,946,993.90
Italy	397,973.21	402,005.21
Jordan	24,207,836.54	24,307,865.58
Pakistan	12,007,471.90	12,019,824.84
United Kingdom	13,229,907.33	13,239,489.34

Table 4. Fifth instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
India	67,698,665.21	67,715,447.22
Jordan	94,089,135.96	94,381,201.82
Lebanon	2,408,758.24	2,450,280.73
New Zealand	64,413.86	46,992.01
Pakistan	7,859,267.78	7,863,835.25
Philippines	7,871,819.05	7,890,192.76
Sudan	15,959,540.47	15,976,107.94
Syrian Arab Republic	100,327,919.47	100,340,376.21

Table 5. Sixth instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Bangladesh	21,453,766.13	21,459,510.08
Canada	9,327,549.62	9,386,296.50
India	104,814,938.57	104,850,234.19
Iran	12,651,680.06	12,658,608.86
Israel	177,586.52	177,586.92
Italy	979,859.67	1,002,281.82
Jordan	180,418,308.14	180,891,651.27
Lebanon	11,852,210.70	11,898,155.19
Pakistan	37,330,539.19	37,397,445.24

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Philippines	10,691,744.59	10,698,665.00
Poland	1,933,492.85	1,958,759.29
Sudan	21,744,728.88	21,732,162.24
Syrian Arab Republic	95,547,753.26	95,570,695.27
Tunisia	3,337,545.82	3,347,597.72
United Kingdom	22,200,180.09	22,200,749.80
UNDP Kuwait	10,258,187.89	10,384,382.32
UNHCR Germany	-	17,549.34
UNRWA Gaza	2,623,050.49	2,574,693.22

Table 6. Seventh instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Australia	1,724,954.90	1,732,428.95
Bangladesh	37,706,783.84	37,746,419.68
Belgium	231,802.31	245,818.82
Canada	11,943,883.83	11,973,474.82
China	125,249.57	125,249.57
Egypt	231,251,021.36	231,246,647.69
Finland	298,228.83	332,647.98
India	186,796,893.79	186,928,200.34
Iran	27,084,712.23	27,095,092.06
Jordan	281,071,994.02	281,494,326.55
Kuwait	787,212,263.25	787,939,426.70
Pakistan	72,551,534.16	74,552,547.72
Philippines	10,343,737.26	10,349,808.76
Poland	716,179.29	731,511.47
Sri Lanka	5,287,797.86	5,284,164.64
Sudan	14,812,062.58	14,831,979.54
Syrian Arab Republic	56,939,952.32	56,984,958.71
Tunisia	8,414,977.79	8,424,710.75

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
United Kingdom	28,867,341.93	28,876,154.87
Yemen	79,177,795.01	79,199,517.09
UNDP Jerusalem	4,334,780.44	4,339,624.73
UNRWA Gaza	6,796,892.02	6,767,301.03

Table 7. Revised total recommended awards for category "C" claims

Instalment	Previous total recommended award (US$) a/	Corrected total recommended award (US$)
First b/	51,086,479.00	51,086,478.00
Second	431,155,375.79	431,463,342.93
Fourth	654,256,442.61	654,449,206.59
Fifth	734,670,391.22	735,072,726.97
Sixth	763,011,685.12	763,875,585.72
Seventh	1,928,144,235.51	1,931,655,410.19

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a/ The previous total recommended award amounts in this column include the initial awards approved by the Governing Council in its decisions 25, 36, 37, 39, 41, 52, 70 and 85 (S/AC.26/Dec.25 (1994), S/AC.26/Dec.36 (1996), S/AC.26/Dec.37 (1996), S/AC.26/Dec.39 (1996), S/AC.26/Dec.41 (1997), S/AC.26/Dec.52 (1998), S/AC.26/Dec.70 (1999) and subsequent corrections approved by the Governing Council in its decisions 39, 41, 52 and 85 (S/AC.26/Dec.39 (1996), S/AC.26/Dec.41 (1997), S/AC.26/Dec.52 (1998) and S/AC.26/Dec.85 (1999).

b/ The previous total recommended award shown above and in table 11 of decision 85 for the first instalment had been calculated taking into consideration different rounding conventions as explained in paragraph 23 above in the present report. If these were not taken into consideration, the difference between the previous and the corrected total recommended award in this table would be US$36 which would correspond to the difference resulting from the variations listed in table 1 of this annex.

Annex XXI

Decision concerning the correction of awards for category A and C claims pursuant to article 41 of the Provisional Rules for Claims Procedure taken by the Governing Council of the United Nations Compensation Commission at its 94th meeting, held on 15 March 2000 at Geneva*

The Governing Council,

Having received, in accordance with article 41 of the Provisional Rules For Claims Procedure (S/AC.26/1992/10) ("the Rules"), a report [1] by the Executive Secretary concerning the correction of awards for claims in categories "A" and "C",

1. Decides, pursuant to article 41 of the Rules, to correct the amounts of the approved awards for Governments and international organizations. [2] The aggregate corrected amounts per country and instalment, are as follows:

Table 1. First instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
France	989,500.00	986,500.00
India	25,043,000.00	25,040,500.00

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* Previously issued as document S/AC.26/Dec.95 (2000).

[1] The text of the report appears in document S/AC.26/2000/10 (annex XX above).

[2] In conformity with the provisions on confidentiality in the Rules (articles 30, paragraph 1, and 40, paragraph 5), a table containing the breakdown of the corrected amounts to be paid to each individual claimant will not be made public, but will be provided to each respective Government and international organization separately.

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Sri Lanka	25,114,500.00	25,093,000.00

Table 2. Second instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Sri Lanka	77,298,500.00	77,198,500.00

Table 3. Third instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Kuwait	104,620,000.00	104,615,000.00
Sri Lanka	52,421,000.00	52,357,000.00

Table 4. Fourth instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Australia	85,500.00	93,500.00
Egypt	207,343,500.00	207,341,000.00
France	138,000.00	128,000.00
India	146,328,000.00	146,300,000.00
Philippines	30,465,000.00	30,260,500.00
Sri Lanka	71,728,000.00	69,796,500.00
Sudan	10,223,500.00	10,221,000.00
UNHCR Germany	0.00	2,500.00
UNRWA Gaza	687,000.00	691,000.00

Table 5. Fifth instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Bosnia and Herzegovina	3,528,000.00	3,476,000.00
Canada	409,000.00	414,000.00
India	147,801,500.00	147,616,500.00
Philippines	31,112,000.00	31,108,000.00

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Sri Lanka	72,105,000.00	71,533,000.00
Thailand	10,592,000.00	10,552,000.00
Yugoslavia, Federal Republic of	3,790,500.00	3,794,500.00
UNWRA Gaza	736,000.00	731,000.00

Table 6. Sixth instalment category "A" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Bangladesh	65,943,500.00	65,852,500.00
Bosnia and Herzegovina	2,060,000.00	1,780,000.00
Egypt	18,651,000.00	18,636,000.00
France	23,000.00	20,500.00
India	17,418,500.00	17,327,500.00
Iran	5,565,000.00	5,482,500.00
Jordan	17,527,500.00	17,522,500.00
Morocco	2,561,500.00	2,554,000.00
Pakistan	46,279,000.00	46,258,000.00
Philippines	60,810,000.00	60,714,500.00
Sri Lanka	36,643,000.00	36,403,000.00
Sudan	509,500.00	512,000.00
Turkey	1,552,500.00	1,550,000.00
Viet Nam	3,492,000.00	3,496,000.00

Table 7. First instalment category "C" claims corrections

Country or international organization	Country total reported in S/AC.26/Dec.25 (1994), as modified by subsequent corrections, where applicable	Country total (sum of individual claim totals)
Australia	1,919,706.00	1,919,705.00
Denmark	1,595,504.00	1,595,505.00
Kuwait	11,403,258.00	11,403,243.00
Nepal	31,963.00	31,962.00

Country or international organization	Country total reported in S/AC.26/Dec.25 (1994), as modified by subsequent corrections, where applicable	Country total (sum of individual claim totals)
Pakistan	17,768,886.00	17,768,858.00
Poland	852,211.00	852,210.00
United Kingdom	5,310,759.00	5,310,760.00
United States	10,522,623.00	10,522,630.00
Yugoslavia, Federal Republic of	616,860.00	616,861.00

Table 8. Second instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Bangladesh	12,161,510.90	12,168,258.30
India	70,365,172.62	70,389,572.27
Jordan	38,667,291.51	38,902,796.72
Lebanon	26,532,492.94	26,548,582.90
Sudan	5,217,538.58	5,222,521.28
UNDP Kuwait	5,605,638.03	5,625,880.25

Table 9. Fourth instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
India	45,880,225.91	45,946,993.90
Italy	397,973.21	402,005.21
Jordan	24,207,836.54	24,307,865.58
Pakistan	12,007,471.90	12,019,824.84
United Kingdom	13,229,907.33	13,239,489.34

Table 10. Fifth instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
India	67,698,665.21	67,715,447.22
Jordan	94,089,135.96	94,381,201.82

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Lebanon	2,408,758.24	2,450,280.73
New Zealand	64,413.86	46,992.01
Pakistan	7,859,267.78	7,863,835.25
Philippines	7,871,819.05	7,890,192.76
Sudan	15,959,540.47	15,976,107.94
Syrian Arab Republic	100,327,919.47	100,340,376.21

Table 11. Sixth instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Bangladesh	21,453,766.13	21,459,510.08
Canada	9,327,549.62	9,386,296.50
India	104,814,938.57	104,850,234.19
Iran	12,651,680.06	12,658,608.86
Israel	177,586.52	177,586.92
Italy	979,859.67	1,002,281.82
Jordan	180,418,308.14	180,891,651.27
Lebanon	11,852,210.70	11,898,155.19
Pakistan	37,330,539.19	37,397,445.24
Philippines	10,691,744.59	10,698,665.00
Poland	1,933,492.85	1,958,759.29
Sudan	21,744,728.88	21,732,162.24
Syrian Arab Republic	95,547,753.26	95,570,695.27
Tunisia	3,337,545.82	3,347,597.72
United Kingdom	22,200,180.09	22,200,749.80
UNDP Kuwait	10,258,187.89	10,384,382.32
UNHCR Germany	-	17,549.34
UNRWA Gaza	2,623,050.49	2,574,693.22

Table 12. Seventh instalment category "C" claims corrections

Country or international organization	Previous total recommended award (US$)	Corrected total recommended award (US$)
Australia	1,724,954.90	1,732,428.95
Bangladesh	37,706,783.84	37,746,419.68
Belgium	231,802.31	245,818.82
Canada	11,943,883.83	11,973,474.82
China	125,249.57	125,249.57
Egypt	231,251,021.36	231,246,647.69
Finland	298,228.83	332,647.98
India	186,796,893.79	186,928,200.34
Iran	27,084,712.23	27,095,092.06
Jordan	281,071,994.02	281,494,326.55
Kuwait	787,212,263.25	787,939,426.70
Pakistan	72,551,534.16	74,552,547.72
Philippines	10,343,737.26	10,349,808.76
Poland	716,179.29	731,511.47
Sri Lanka	5,287,797.86	5,284,164.64
Sudan	14,812,062.58	14,831,979.54
Syrian Arab Republic	56,939,952.32	56,984,958.71
Tunisia	8,414,977.79	8,424,710.75
United Kingdom	28,867,341.93	28,876,154.87
Yemen	79,177,795.01	79,199,517.09
UNDP Jerusalem	4,334,780.44	4,339,624.73
UNRWA Gaza	6,796,892.02	6,767,301.03

2. Decides also that, based on the above corrections, the revised total recommended awards by instalment are as follows:

Table 13. Revised total recommended awards for category "A" claims

Instalment	Previous total recommended award (US$) a/	Corrected total recommended award (US$)
First	189,633,000.00	189,606,000.00
Second	641,352,500.00	641,252,500.00

Instalment	Previous total recommended award (US$) a/	Corrected total recommended award (US$)
Third	531,571,000.00	531,502,000.00
Fourth	734,839,000.00	732,674,500.00
Fifth	785,391,000.00	784,542,000.00
Sixth	317,188,000.00	316,261,000.00

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a/ The previous total recommended award amounts in this column include the initial awards approved by the Governing Council in its decisions 22, 28, 29, 31, 33, 38 and 67 (S/AC.26/Dec.22 (1994), S/AC.26/Dec.28 (1995), S/AC.26/Dec.29 (1995), S/AC.26/Dec.31 (1995), S/AC.26/Dec.33 (1995), S/AC.26/Dec.38 (1996) and S/AC.26/Dec.67 (1999)) and subsequent corrections approved by the Governing Council in its decisions 42, 44, 51, 54, 57, 71, 79 and 85 (S/AC.26/Dec.42 (1997), S/AC.26/Dec.44 (1997), S/AC.26/Dec.51 (1998), S/AC.26/Dec.54 (1998), S/AC.26/Dec.57 (1998), S/AC.26/Dec.71 (1999), (S/AC.26/Dec.79 (1999) and (S/AC.26/Dec.85 (1999)).

Table 14. Revised total recommended awards for category "C" claims

Instalment	Previous total recommended award (US$) a/	Corrected total recommended award (US$)
First b/	51,086,479.00	51,086,478.00
Second	431,155,375.79	431,463,342.93
Fourth	654,256,442.61	654,449,206.59
Fifth	734,670,391.22	735,072,726.97
Sixth	763,011,685.12	763,875,585.72
Seventh	1,928,144,235.51	1,931,655,410.19

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a/ The previous total recommended award amounts in this column include the initial awards approved by the Governing Council in its decisions 25, 36, 37, 39, 41, 52, 70 and 85 (S/AC.26/Dec.25 (1994), S/AC.26/Dec.36 (1996), S/AC.26/Dec.37 (1996), S/AC.26/Dec.39 (1996), S/AC.26/Dec.41 (1997), S/AC.26/Dec.52 (1998), S/AC.26/Dec.70 (1999) and subsequent corrections approved by the Governing Council in its decisions 39, 41, 52 and 85 (S/AC.26/Dec.39 (1996), S/AC.26/Dec.41 (1997), S/AC.26/Dec.52 (1998) and S/AC.26/Dec.85 (1999).

b/ The previous total recommended award shown above and in table 11 of decision 85 for the first instalment had been calculated taking into consideration different rounding conventions as explained in paragraph 23 of document S/AC.26/2000/R.8. If these were not taken into consideration, the difference between the previous and the corrected total recommended award in this table would be US$36 which would correspond to the difference resulting from the variations listed in table 7.